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GENERAL ETHICS

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GENERAL ETHICS

A DIGEST OF LECTURES

by

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PREFACE

These digests and outlines are necessarily brief. As their title indicates they are a collection of analyses of lectures delivered to the students of Holy Cross College during the scholastic years, 1927-1928; 1928-1929; 1929-1930; 1930-1931.

The questions touched upon in the following pages could not be thoroughly treated in many volumes of this size. The aim has been to cover a wide field rather than to go into detail. Those who have the time can make a more extensive study through the references and bibliographies found in the following pages.

The method followed in this book is the scholastic method. First the thesis is stated in bold face type; then the terms of the thesis are defined and explained and a proof of the thesis is added; a commentary on the thesis often follows in the form of a corollary or scholion and frequently objections and difficulties are adjoined at the end of the thesis. The division of the matter into theses serves as a natural division of the book. It will also be an aid in the class room as a natural division of the matter for lectures and recitations. The syllogism is adhered to rather closely as a means of stressing accuracy and clearness of expression in the students. The purpose of the objections is to bring out the doctrine of the adversaries and to answer them briefly.

This method of presenting the matter readily lends itself to the traditional method of teaching in the colleges of the Society of Jesus and is the method in vogue in many of the schools and universities of Europe, inherited from the days of the schoolmen and the centuries of learning.

This system has its advantage for it makes philosophy a mental discipline and not merely a reading course. Frequently during the year students are appointed to explain and prove a thesis and answer objections against it as presented by two other students appointed for the purpose. This is a class exercise and is known as a disputation or a "circle" and shares something of the nature of a debate. It serves to render the student alert and keen to analyze the argument of an opponent and answer it.

At the end of the year or at the end of a semester oral examinations are held in which the student is presented with a list of theses and before a board of examiners must be prepared to explain any of the theses and answer objections brought up against them. In this case the faculty and the examiners take the part

of the adversaries and the student acts the part of the defender of the proposition or thesis.

In putting this matter into somewhat more permanent form than it has hitherto had, we are well aware that much of it has been borrowed from the standard authors in the field of ethics or from the notes of fellow professors. The obvious difficulty of giving credit here to the numerous sources drawn upon, except in this general way, is the plea advanced, to excuse the failure to do so. In the following pages, however, and in the bibliography will be found the names of most of the authors we have quoted or used.

We feel constrained, however, to mention here the names of several who have considerably aided us in this little work: Namely Rev. John M. Fox, S.J., President of Holy Cross College; the late Rev. John H. Fasy, S.J., formerly Professor of Ethics, at Fordham University, New York; and Rev. Jones I. J. Corrigan, S.J., Professor of Ethics, at Boston College.

The manuscripts on ethics, jointly issued by Father Fasy and Father Fox, were freely used with the kind permission of both authors.

Father Fasy died in December 1929 at Fordham University, New York. A noble priest and a devoted teacher, he gave his best efforts and finally his life to the work of the class room and the education of youth.

To Father Fox we owe a debt of gratitude not only for the kind permission to use his notes, but also for the aid and encouragement he has given in the editing of these outlines.

"Notes on Ethics," by the Rev. Jones I. J. Corrigan, S.J., have also been a valuable aid to the author.

One final word. These outlines of lectures are at the most, merely a text. They are not a complete treatise on the subject. They suppose two things, exposition on the part of the professor and collateral reading on the part of the student. Mere text-book knowledge is not sufficient if the best results on the part of the student are expected. Moreover some method of checking up on the collateral reading should be in vogue.

At the suggestion of several fellow professors and former students who thought well of these lectures, and who believed that they would be an aid to other students and professors of ethics, we are now committing them to a more permanent form.

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POSTULATES OF ETHICS

All sciences and arts must have their postulates. That is they must take for granted certain truths on which they depend and which they use. These truths not only can be proved but they have actually been proved; but the proof has been drawn from other sciences than those which use the truths.

The chief postulates of ethics are:

1. The existence of God, the creator of man and all things.

2. The freedom of the human will.

3. The immortality of the human soul.

4. Ethics must depend on natural theology for the proof of the first postulate and on psychology for the proof of the second and third postulates.

THE EXISTENCE OF GOD*

We will give here a brief proof for the existence of God because it is so frequently referred to in ethics.

Can we prove the existence of God?

Our answer is that there are many ways in which a knowledge of God could be brought home even to the ordinary uneducated mind by reason alone and without the aid of revelation.

a. In the first place the plainest and most unthinking man must realize that the world has a cause. That events are produced by causes, is a proposition which no ordinary intellect could think of rejecting. Kant and Hume may raise certain metaphysical objections to causality, but these objections would not occur to, or, if they occurred to, would certainly have no weight with ordinary minds. To the plain man it is an obvious truth that the things that he sees around him have not brought themselves into existence, that he himself has not caused his own existence, that his parents are not the full cause of his life since

*These arguments for the existence of God have been adapted from Science of Ethics by Cronin, Vol. II, Chap. I.

there is so much in the body and mind of man which they do not understand and which they could not possibly contrive, that they themselves are caused by some one outside of themselves, etc. His mind thus naturally travels up to the thought of One Who has made all things, the Founder and Creator of the universe.

b. Secondly, to the ordinary mind the evidences from design are not only most intelligible, but most convincing also. The general order of the world suggests the thought of a mind overshadowing and over-ruling all; the element of design evident in every living thing, in the aptitude of every organ for the performance of its own functions, and in the sum of the organs for providing for all the necessities of our life, this probably more than any other consideration, not only brings the ordinary mind to a knowledge of the creator, but brings men also into close touch with God as the supreme ruler, as One Who cares for and superintends the things of the world, is kind and bountiful to His creatures and desires their happiness.

c. Again the conviction of reason that good action calls naturally for reward, that evil actions render a man liable to punishment, that somehow and somewhere the wrongs of this world will have to be righted, that compensation is to be had for pain and suffering unjustly borne, in general terms, that the world is a reasonable world, which it would not be if the robber and the tyrant and the murderer had not some retribution awaiting him for his evil life; all this brings back the heart and mind of man to the thought of a moral governor, of One Who will bring all things to a good end, Who has pity for suffering, and will defend the noble, the just, the pure and the truthful and equalize the losses of virtue with gains a hundred fold. It would be difficult to put this argument into a form that would completely satisfy the logician and the sceptic, but it is an argument that makes a powerful appeal both to the ordinary and educated mind. Our reason revolts at the idea of wrongs forever unrighted. It is satisfied and tranquillized at the thought of one Who is empowered to bring to effect those compensations without which the world and life would be not only bitter but unbearable, without which life would be a futile, foolish and footless thing.

d. Finally, the heart of man opens at the thought of One, Who will bring perfect happiness to man, and Who will supply con-

ditions under which such happiness is attainable. Why this burning desire for happiness arising out of the very nature of the human heart, this longing which no finite and created thing can satisfy, if perfect happiness is nowhere attainable? Without God man is an unintelligible riddle; through the thought of God, the whole world, and in particular the world of man, comes to have a meaning, and becomes rational and intelligible.

For a fuller and more scientific exposition of these arguments confer natural theology. Here the arguments have merely been suggested but they are accurate in the main, and they make an instant appeal to the humble and uncritical mind not hindered in its natural operation by vanity and prejudice.

FREE WILL

The question arises as to the efficacy of the will as the subjective means by which man is made master of his own deliberate actions. *The human will in many actions enjoys a true freedom of choice.* The true freedom of choice is a freedom in the performance of an activity that is not restrained by an internal necessity. Freedom of choice is also known as freedom of active indifference, i.e. when everything is ready for action, the will has still a choice of its own with regard to the action. In many of our acts we have this clear consciousness of our freedom of choice: (1) Before the act; we are conscious of our deliberation about the reasons for or against a definite action; without freedom of choice, this deliberation would be absurd. (2) During the decision; we are conscious of free consent, and because of this we are careful, realizing we are assuming responsibility. (3) After the decision; we are conscious that we could have decided otherwise, and we blame or praise ourselves alone for any regret or credit accruing from the action. Unless our wills had a freedom of choice with regard to these actions, the deliberation, decision, and assumption of merit or demerit would be absurd. Furthermore, man's rational nature demands a free will as a necessary complement to his intellect, for unless a free choice can be determined, there is no sufficient reason for intellectual deliberation.

If the objection be raised that we sometimes punish animals it must be remembered that we never punish animals in the same way

that we punish men. We never punish one animal in order to deter other animals from committing similar crimes because we realize that animals cannot reason.

When we punish animals, it is in order to associate pain with the misdeed and thus to deter this animal from a repetition of the same misdeed. The purpose of our action is to associate pain with the misdeed and thus we train the animal to avoid such misdeeds in the future. Thus if we punish an animal for running into a church we never expect that the animal will reason that it is wrong to enter any church. The punishment of animals can be explained by the association of material phantasms.

IMMORTALITY OF THE SOUL

If man has an innate and supreme longing for immortality we ought to admit that the human soul is immortal or we ought to admit that man has an innate supreme longing for something that does not exist. But to admit that man has an innate and supreme longing for something that does not exist is to acknowledge that God is a deceiver having placed within us a longing for something that does not exist. This would be against the goodness and veracity and wisdom of God. This is to admit that God has mocked us and that rational nature is a foolish and futile and footless thing that lures us on to what does not exist and that life has no meaning.

The human soul is *"de jure"* immortal, since it cannot suffer corruption either *per se* or *per accidens;* not *per se,* because the soul is physically simple; not *per accidens,* because the soul is spiritual and independent of the body, and will not corrupt with the body. Being totally incorruptible, the human soul is also *"de facto"* immortal if it will not be annihilated. The annihilation of an incorruptible being has a negative result, and hence demands a negative act to effect the result. Such a negative act can be accomplished only by the conserving cause of the existence of the human soul, God, and there is no sufficient reason why God should annihilate the soul.

COROLLARY

Animals do not reason and hence their actions are not the subject matter of Ethics.

Animals do not reason because they show no signs of reason-

ing. Animals act the same way today as they did in the time of Caesar. They show no progress such as beings endowed with reason manifest. They do not use language or make judgments as do men.

If they perform actions which manifest intelligence such as happens when a bird builds a nest or a pigeon finds its way home over the trackless ocean this intelligence must be attributed to some other cause outside the animals. If the pigeon finds its way home over the trackless ocean by means of reason and if the bird builds its nest by reason and if some animals provide food for their young by means of reason then we must admit that they show higher powers of reasoning than man himself for man only does these things after prolonged study, whereas animals do these wonderful things without any study and without any instruments. Moreover animals do these wonderful things when only a few weeks old whereas men can do them only after years of prolonged study and application.

Moreover animals never make tools or show any signs of progress or improvement over their ancestors. Again animals do so many things that argue an entire lack of reasoning. Why does a bird build its nest in captivity when it is useless to build a nest? Why does a dog freezing to death from cold and exposure fail to recognize the obvious means of saving its life by piling wood on the fire?

Hence we assert that free activity, actions that proceed freely from the will subsequent to deliberation and reasoning are characteristic of man alone. These are the acts that differentiate man from the beast. Concerning these acts of man we treat in Ethics.

What animals do with a semblance of reasoning, they do by instinct, that is they are moved to do these actions by some outside intelligence.

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Free Will—Catholic Encyclopedia VI-259
Immortality—Catholic Encyclopedia VII-687

I. ETHICS AND ITS OBJECT

THESIS I

Ethics is a normative science, based on reason, which interprets a specific and paramount fact, the elements of which are conduct and oughtness.

INTRODUCTION

Every department of thought presupposes some distinctive fact or aggregate of facts which it reduces to a common category and undertakes to explain. In the case of Ethics, this fact is a fact of our daily experience. It is this:

There is an intellectual impulse found in all men, to judge that there is a difference between right and wrong in man's actions and that in consequence there are some actions which man ought not to perform, some which he ought to perform, some which he may perform or omit just as he pleases.

EXPOSITION

SPECIFIC: This fact is called specific for the following reasons:

1) This intellectual impulse is found in man *alone.*

2) This intellectual impulse is found in man precisely because of the *specifically* differentiating attribute of his nature, namely, rationality.

3) This intellectual impulse it is which makes *man alone a responsible* agent, worthy, because of his actions, of praise or blame.

PARAMOUNT: This fact is called paramount for the following reasons:

1) The judgment in question is *supreme,* in this sense, that it attributes or denies to man's actions that worth or value which is considered the highest or supreme worth. Man's judgments regarding the right or wrong, lawfulness or unlawfulness of his actions are, theoretically at least, held of more importance than

his judgment regarding the economic, social or political worth of the same actions.

2) The judgment in question is *universal,* i.e., applicable and in fact applied, however erroneously at times, to all actions for which men feel they are responsible.

3) The judgment in question is the outstanding characteristic of the race, i.e., this impulse to attribute or deny supreme worth to certain actions is so deep-seated in man's nature that it gives rise to what may be called the customary *judgment* of the race. The *customary* and uniform *ways of acting,* which in turn arise from this *customary* judgment, may also be rightly called *the customary ways of acting of the race.* Hence it is that the name ETHICAL (from the Greek Ethos—a customary or characteristic way of acting) or MORAL (from the Latin *mos*) has, by historical usage, come to be applied both to this judgment and the consequent ways of acting.

ELEMENTS of the fact are the general subject-matter embraced in this fact and the special view-point under which this subject-matter is considered. Technically, therefore, they are the Material and Formal Objects of the science which deals with this fact. (Cf. Thesis 2 and 6).

CONDUCT: Actions which we are conscious are under our control and for which we are responsible. Such are actions which proceed from the will with a knowledge of the end and subsequent to deliberation. (Cf. Thesis 2).

OUGHTNESS: A necessity less than that of a physical cause and more than that which arises from expediency or propriety. It is a necessity which man understands as absolute and peremptory, though not physically compelling, of putting his conduct into accord with a standard of right. It is a necessity recognized by man's reason as a dictate, absolute and authoritative, yet not destructive of man's physical power to obey or disobey. This necessity, therefore, leaves man an agent responsible for his actions. (Cf. Thesis 6).

SCIENCE: Any body of truths, whether phenomenal or rational, co-ordinated under principles by which they are explained and methodically formulated into a system. Or briefly, a sys-

tematized body of truths with a proper subject-matter and a particular view-point.

Sciences either investigate the nature of things primarily for the sake of knowing and are called SPECULATIVE, or estimate the meaning and value of things in their bearings on action and are called PRACTICAL.

Factual, if they establish principles for the direction of actions that look to the accomplishment of something outside of man's own nature.

Normative, if they establish norms for the regulation and direction of human actions to the accomplishment of something that will perfect the very nature of man.

E.g., Logic establishes the norms and laws of correct thinking, which is a perfection of man's intellect. Logic does not tell you that you will think correctly, but gives the guidance that must be followed for correct thinking.

Therefore to say that Ethics is a *Normative Science* is to say that Ethics determines the principles by which conduct (the free actions of man) ought to be regulated for the accomplishment of a perfection proper to man's own will.

BASED ON REASON: i.e., all the proofs of this science must find their source in the natural light of reason. Hence, we first of all exclude Divine Revelation and human authority as foundations for our proofs. Secondly, we maintain that the science of Ethics is not merely an empirical science with all principles inductively inferred from experience.

INTERPRETS: This specific paramount fact presupposed, it is, we say, the work of Ethics to investigate the fact, analyze it, discover all its implications, examine the grounds on which the ethical judgment is based and draw from it whatever practical conclusions as to particular actions we legitimately can.

PROOFS

Part I. ETHICS IS A SCIENCE.

A body of systematized truths etc. is a science.

But Ethics is a body of systematized truths etc. *Therefore*

Major: A definition.

Minor: Will be proved true in the course of the study of the following theses.

Part II. ETHICS IS A NORMATIVE SCIENCE.

A normative science establishes norms as explained in prenotes.

But Ethics establishes such norms.

Therefore Ethics is a normative science.

Part III. THE SCIENCE OF ETHICS IS BASED ON REASON.

The science of Ethics is based on reason if Ethics draws its conclusions from reason and not from authority.

But Ethics thus proceeds.

Therefore Ethics is based on reason.

Minor is clear because in Ethics we do not draw our conclusions from authority as a source. Authority is at the most only a guide.

Part IV. THE SCIENCE OF ETHICS INTERPRETS A SPECIFIC AND PARAMOUNT FACT.

The morality of human conduct is the subject matter of Ethics.

But the morality of human conduct is a paramount and specific fact. *Therefore*

Major clear.

Minor is clear from explanations given in prenotes.

PART V. THE ELEMENTS OF THE ETHICAL FACT ARE CONDUCT AND OUGHTNESS.

If the subject matter of our ethical judgments are responsible actions and only responsible actions, and if the special aspect under which we view responsible actions is oughtness, then the elements of the ethical fact are conduct and oughtness.

But these conditions are true.

Therefore the elements of the ethical fact are conduct and oughtness.

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Ethics—Catholic Encyclopedia V-556
Morality—Catholic Encyclopedia X-559

THESIS II

The material object of Ethics is conduct or volitional action.

INTRODUCTION

We have seen in the first thesis that the actions about which man is impelled to judge the presence or absence of supreme worth are all those actions and only those actions which he is conscious are under his control and for which he feels that he is responsible. These actions, in consequence, form the subject matter of the ethical judgment and so constitute what is technically known as the material object of the science of Ethics.

The purpose of the present thesis is to examine more intimately into the nature of these actions, to which the name conduct, has been given.

EXPOSITION

Material Object is that with which a science is concerned.

The Formal Object is that particular aspect with which the science is concerned.

Thus the material object of geography is the earth; the formal object of the geography is the surface of the earth; the material object of geology is the earth; the formal object of geology is the structure of the earth.

Conduct: Actions which we are conscious are under our control and for which we are responsible. Such are actions which proceed from the will with a knowledge of the end and subsequent to deliberation.

Before defining volitional action we will first explain briefly the various kinds of human acts.

Actus hominis (acts of man) are called those acts which are common both to man and brutes, and which do not depend on the free will. Digestion, circulation of the blood, beating of the heart. Moreover acts which occur without deliberation are called acts of man (*Actus hominis*).

Actus humani (Human acts) are called those which are proper

to man because they proceed from the free will of man i.e., they occur with deliberation of the mind and consent of the will. Those acts which we deliberately and freely perform.

Involuntary acts are those which do not proceed from the will as a principle or cause, e.g., Digestion.

Voluntary acts are those which proceed from the will as from a principle or cause (as an effect from its cause). Two conditions are therefore required that an act may be classified as a voluntary or volitional act, namely that it proceed from the will as from a cause; and that it be placed with knowledge.

Note the difference between willing a thing and wishing a thing. A farmer wishes rain but does not will rain because the rain does not depend on his will. I may wish the death of an enemy without willing the death of an enemy. Or I may both wish and will the death of an enemy.

Voluntary acts are divided into perfect and imperfect voluntary acts. A perfect voluntary act occurs when there is full deliberation of the mind and full consent of the will. An imperfect voluntary act occurs when there is a lack of deliberation and consequently a lack of full consent on the part of the will. A voluntary act is not called imperfect because it is performed with some repugnance, but because it is performed with inadvertence.

Thus a man who in a fit of anger utters blasphemy may not sin gravely, because he does not advert fully to what he is saying and his curses are only venial sins through a lack of advertence. Or he is in such a rage that he does not advert at all to what he is saying and in this case his blasphemy would be classed as what are known as *"motus primo primi"* mere outbreaks of his animal nature. However such a man might be guilty because he had failed to correct such a bad habit or for some extrinsic reason such as allowing himself to get into such a state.

An elicited volitional act is one performed solely by the will, act of love or hatred.

A commanded volitional act is one that is performed by some other power under the command of the will, e.g., walking. Thus the will can command the intellect to think along certain lines, or it can command the eyes to look at an object or refuse to look at an object.

A direct voluntary act (voluntary in se) is one where we will and intend a thing in itself either as a means or an end. Thus a man who shoots in order to kill a bird directly wills the shooting and directly wills the death of the bird.

An indirect voluntary act (voluntary in causa) is one where we will not the thing in itself but we will an act and from this act a foreseen consequence follows as an effect. Thus the man who fires a bomb shell at a monarch, knowing that it will kill the attendants, also wills indirectly the death of the attendants, and consequently the killing of the attendants is voluntary, even though their death is by no means a pleasure to the assassin.

An action is said to be voluntary in itself when it is in itself the object of the will.

An action is said to be voluntary in cause when it is a foreseen effect of something else which is willed.

A voluntary act can be actual, virtual, habitual or interpretative.

An actual voluntary act is had when a man actually intends a certain act.

A virtual voluntary act is had when a man places a certain act not by an actual intention but by virtue of a previous intention.

An habitual voluntary act is had when a man has previously formed an intention and has not revoked it but does not now act on that intention.

An interpretative voluntary act is had when a man does not actually intend nor did he previously intend an act but would intend it if he had forseen it.

Let us illustrate this. Mr. A, a member of one of the conferences of St. Vincent De Paul, is commissioned to give five dollars to a distressed family. He sets out on his journey, but is so deeply concerned with other thoughts as to be unmindful of his mission, yet he directs his steps aright in virtue of his former intention, that is with a virtual intention. He stops for some hours at the house of a friend, totally uninfluenced by the purpose for which he started out; yet it remains as a habit, it is habitual. At last he reaches the family and finds out that they are in such distress, that had the conference known it, they would have given them a larger sum. Accordingly he gives them a larger sum act-

ing on the intention of the conference as he interprets it. This is the conference's interpretative intention, that is the intention the conference would have had, if it had known all the facts.

These two latter kinds of voluntary acts or intentions namely habitual and interpretative, although not so important as the first two kinds, actual and virtual, are not without their effects in morals and in civil law.

FURTHER NOTIONS ON THE ACT VOLUNTARY IN CAUSA

Of the distinction drawn between direct and indirect voluntary acts we must now offer some further explanation and some consideration must be given here to the act which has a double effect, one good and one bad.

Sometimes attached to those actions which please us and which we wish to do, there are consequences which do not interest us or which perhaps, displease us, and it is not always easy to say whether in willing the act we may be justly said to will the consequences; and whether we are bound to refrain from an act that has evil consequences.

Now the first of these questions may be answered very briefly by saying that if a man knows that attached to his acts there will be certain evil consequences then whether he likes these consequences or does not like them, we must regard their production as a voluntary act; for the will in causing an act from which these consequences spring is indirectly also the cause of the consequences of this act (*causa causae est causa causati*) "the cause of the cause is the cause of the thing caused." And this is true even if the consequences be at times displeasing to us. For when we do an act we do the whole act, just as when we buy a house we buy the whole house, both the good points and the bad points. The will therefore is the true, though the indirect cause of all the known consequences of our acts and if the act that we do is free and the consequences be foreseen then we are rightly held to be responsible for them.

But a more difficult question arises concerning a man's moral obligations in regard to these consequences, whether, namely, in the case of evil consequences, he is always bound to refrain from the action to which they belong. Acts that are in themselves good

or indifferent are not always forbidden because of the evil consequences to which they lead. For though the person who does these acts is the cause of the consequences to which they lead, still he is not their direct cause, nor is his will and intention fixed on these evil consequences or pleased thereat. It is wrong to wish evil directly, for acts are morally good or bad according as the objects of our will are good or bad. But such a rule cannot be applied to cases in which the will is not fixed on an evil thing, but is fixed rather on some good thing from which certain evil consequences follow. It would, for instance be an absurd thing to charge a ruler with evil doing for engaging in a war which is otherwise just because he knows that many wrongs will follow from a war. It would be absurd to prevent a man from saving his honor because some people might suffer from the disclosures that have to be made in his defense. It would be absurd to prevent a fireman or a policeman or a life guard from spending his efforts in saving some unfortunate victim because of the risk to his own life involved in such an action. In a word if a man were always held to refrain from actions that involve evil consequences, he would frequently be restrained from acting at all and much good would be prevented.

"Granted then that we are not always obliged to prevent the evil consequences of our acts, the question arises, when is it licit to place an act that has evil consequences as well as good consequences.

"The answer to this question may be briefly stated as follows: It is lawful to place a cause from which two effects will flow, one good, the other evil, provided the four following conditions are fulfilled:

"First, it is required that the cause be good in itself, or at least morally indifferent.

"Second, it is required that the good effect follow as immediately and directly from the cause as the evil effect.

"Third, it is required that there be a proportionately grave reason for placing the cause.

"Fourth, it is required that the evil effect be not intended either immediately or remotely.

"These four conditions must be fully verified before it is lawful to place a cause having two effects, the one good, the other evil.

FIRST CONDITION

"The reason for the first condition, that the cause must in itself be good, or at least morally indifferent, is this: if the cause itself were evil, there would be a moral obligation to refrain from placing such a cause. No matter how good the ultimate end intended might appear to be, it can never morally justify the placing of a cause that is evil in itself.

SECOND CONDITION

"The reason for the second condition, that the good effect must follow as immediately and directly from the cause as the evil effect, is this: if the good effect were not to follow as immediately and directly from the cause as the evil effect, it would necessarily be subordinated to the evil effect, and would be obtained only by means of the evil effect. This would be doing evil that good might come of it, which is a direct violation of the fundamental principle of morality, that "it is never lawful to do evil that good may come of it."

THIRD CONDITION

"The reason for the third condition, that there must be a proportionately grave reason for placing the cause, is this, it would not be equitable to permit a grave evil in order to accomplish a slight good. In other words, in placing a cause that has two effects, one good and the other evil, there must be a just proportion between the good effect intended, and the evil effect permitted.

FOURTH CONDITION

"The reason for the fourth condition, that the evil effect must not be intended either immediately or remotely, is this; to perform a good act even with the remote intention of producing an evil effect is morally wrong. An evil intention vitiates even a good act. Hence in placing a good cause that has two effects, the evil effect must neither be intended nor approved, but merely be permitted to happen.

"For the sake of clearness the general question will be restated here and applied to a particular case.

"QUESTION: Is it ever lawful under any circumstances, to

administer a treatment to a pregnant woman, or perform an operation upon her, that might cause an abortion, or might result in the killing of the fetus.

"ANSWER: Yes it is lawful under the four following conditions.

FIRST CONDITION

"That the act involved in administering the treatment, or in performing the operation, is morally good, or at least indifferent in itself.

"This condition is violated by every act that tends to produce direct abortion, or to result in a direct killing of the fetus, because every such act is intrinsically immoral in itself, and no ultimate purpose, however good it may appear to be can ever morally justify the placing of such an act. Consequently, every form of direct, medical or therapeutic abortion, no matter what the purpose of the physician may be, involves a violation of this condition, because it involves a direct attack upon the life of an innocent human being and such an attack is an act that is in itself intrinsically immoral.

"The first condition is not violated by the cautious administration of morphine in a case of threatened abortion, nor by surgical operations that do not involve a direct attack upon the fetus.

"The cautious use of morphine, in case of threatened abortion means that the morphine is used solely to quiet the woman and thereby avert the threatened abortion. Such an act is morally indifferent in itself, because instead of being a direct attack upon the life of the fetus, it is resorted to as means of saving the life of the fetus, by averting the threatened abortion.

SECOND CONDITION

"That the good effect, which is the saving the life of the mother, follows as immediately and directly from the treatment or operation as the evil effect, which is abortion, or the killing of the fetus.

"This condition is fulfilled, for instance in an operable case of carcinoma of the uterus, in which the pregnant uterus with its adnexa, is totally removed before the fetus is viable. In such a case the good effect, the saving of the life of the mother, follows

as immediately and directly from the operation as the evil effect, which is the death of the fetus. The good effect, in this case is not subordinated to the evil effect, nor is it obtained by means of the evil effect. The saving of the mother's life does not result from the death of the fetus, but it results directly from the removal of the cancerous uterus.

"The second condition is violated by every form of direct medical or therapeutic abortion because in this case the cure of the mother, is obtained by means of the evil effect, and hence it does not follow as immediately and directly from the cause as the evil effect.

THIRD CONDITION

"That there be a proportionately grave reason for placing the cause. This condition is fulfilled, when the medical treatment administrated, or the operation performed, is actually necessary to save the mother's life, though it indirectly involves a danger to the life of the fetus. Hence the good effect intended, the saving of the life of the mother, is justly proportionate to the evil effect permitted, the indirect abortion, or the indirect killing of the fetus.

"This condition is violated when to relieve an illness that does not actually endanger the mother's life, a treatment is administarted, or an operation performed, that is likely to result in the death of the fetus; because there is not a just proportion between the probable death of the fetus and the cure of an illness that does not actually endanger the mother's life.

"This condition is violated, when, during pregnancy to relieve physical pain not endangering the mother's life, morphine is administered in such quantities as to expose the fetus to fatal narcosis.

"It would also be violated by such an operation as a total removal of a pregnant uterus before the term of viability, if the case involved nothing more serious than the presence in the pregnant uterus of a small fibroid tumor which, there is reason to believe, will not endanger the mother's life until after the term of viability has been reached.

FOURTH CONDITION

"That the evil effect of the abortion, or the killing of the fetus, be

not intended either immediately or remotely. The abortion, or the the killing of the fetus, must not be intended, either as an end or as a means to an end.

"All forms of direct abortion involve a violation of this condition."

Confer Finney: "Moral Problems in Hospital Practice." Page 97-104.

A doctor in a case such as this should not act the part of a theologian but if any doubt exist, he should consult a theologian and the proper ecclesiastical authorities.

The following practical "cases," suggesting questions of right or wrong, will afford opportunity for interesting applications of the above principles:

APPENDIX

1. "During the Great War, an American aviator was sent to destroy a German ammunition camp. When he reached the exact position and was about to release the bomb, he noticed that a number of women and children were near the station. The explosion would probably kill the entire group. The aviator knew that the destruction of the ammunition was necessary for an important attack which his comrades were to make on the following day. **Was he justified in releasing the bomb?"—Coppens, *Moral Philosophy*, p. 35.**

2. A member of an exploring expedition in the Antarctic regions was confronted with the following difficulty: The four members of the party were being dragged along by a pack of dogs. After a while it became evident that the dogs were not strong enough to drag the four men. Considering the difficulty, Jones, a member of the party, decided to leave the party. This would probably enable the other three to reach safety. To remain meant certain death for all. Jones' departure meant death for himself, but salvation and life for the others. Jones bade his companions good-bye, and left. He was never heard from after that. Was Jones justified in taking this course of action?

3. During the year 1928, many aviators attempted flights across the ocean. A large proportion of these aviators were lost. Were these aviators justified in thus risking their lives?

4. In a shipwreck, four men were clinging to a raft. The raft was not able to support all four, but probably would support three. Smith, in order to save the other three, let go of the raft and was drowned. Was he justified?—St. Thomas, Disp. 29, a. 15, ad. 3, cf, Noldin, *Theologia Moralis.*

5. Dr. A was confronted with the following case: A patient, Mrs. Smith, an expectant mother, was discovered to be suffering from a growth. To operate and remove the growth would involve the death of the unborn child. Not to operate would involve both the death of mother and child. Although the death of the child would result from the operation, the immediate effect of the operation would be the removal of the diseased organs, and the probable cure of the mother. What should be done in a case like this? What course of action should be adopted if the operation tended to the death of the child directly?

6. Dr. A has been seriously maligned and defamed. In order to defend his character it is impertative that he make certain disclosures which will be injurious to the character and reputation of others. Is it lawful for Dr. A to make such disclosures?

7. Three men were shipwrecked and floated for some time about on the ocean under the blazing sun. Confronted with starvation and thirst, two of them finally decided that it would be better to put one member of the party to death. By doing this they hoped to be able to live by the food this afforded them. This they did. Were these men justified in their action. They argued that the boy they killed was going to die anyway and that it would be better to kill him and save themselves than to have all three die. Comment and explain.

Would a man be justified in removing a diseased eye and thus cause blindness.

Would a man be justified in removing a healthy eye in order to study the structure?

In the moving picture "The Birth of a Nation," a young girl is portrayed as jumping from a cliff to death, in order to save her honor and chastity. Is such an act justifiable

PROOF

The material objects of Ethics is that subject-matter with which Ethics as a science deals.

But Ethics as a science deals with volitional action. *Therefore.*

Major: is clear from definition of material object.

Minor proved: From first thesis it is clear that Ethics deals with the fact that man is impelled to form certain judgments with regard to certain classes of actions. Upon analysis and reflection, we see clearly that it is with regard to only free actions that he experiences this impulse, and free actions are what we have described above as VOLITIONAL and what men commonly designate as CONDUCT. Therefore Ethics deals with Conduct or Volitional Action.

•In accordance with the principles of the double effect some authors claim that the hunger strike is justifiable at times and that in certain cases of ectopic gestation doctors are allowed to perform operations that will result in the death of the fetus. Confer the following authors: Pastoral Theology, H. Davis S.J.; Principles of Ethics by Moore; Ethics of Ectopic Gestation, by Rev. T. L. Bouscaren S.J.; Ethics of the Hunger Strike by Rev. Michael Hogan S.J.; and other approved authors.

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THESIS III

Concupiscence diminishes and may even destroy the freedom of an action performed under its influence. However, when freely stimulated by man's own will, it makes those actions, if forseen, indirectly volitional.

INTRODUCTION

We have thus far determined what it is that makes an action volitional and thus brings it within the sphere or material object of Ethics. It is of great practical importance to examine how far the volitional character of man's actions is modified or affected by the circumstances in which he acts. Since, as we have seen, there are two elements in a volitional act, namely, its dependence upon the will as the principle which elicits it and its dependence upon intellectual knowledge as a necessary prerequisite, it follows that whatever can effect or modify either the inclination of the will itself or the intellectual knowledge of the agent at the moment of the action must also affect or modify the volitional character of the action.

The inclination of the will may be affected at any given moment by the movements of man's senstive appetites towards their proper objects. These movements are called Passions and may be defined as "Movements of the irrational part of soul, attended by a notable alteration of the body, on the apprehension of good or evil."

Intellectual knowledge may be affected by the varying degrees of said knowledge or absence of knowledge. Absence of knowledge is called ignorance.

Hence, we must discuss the effect on volitional action of Passions and Ignorance.

An adequate treatment of the subject of the Passions, especially in their relation to conduct, is of great importance in itself, but it is not in place to give such a treatment here. (cf. Rickaby, *Moral Philosophy,* Part 1, Chap. 4; Woods, *First Book in Ethics,* Chap. 2, and other standard works on Psychology and Ethics.) Neither

is it necessary to defend or even explain any special division of the Passions, as different divisions are given by different authors.

For our present purpose they have been conveniently divided into two grand classes, namely, those which seek for the good or fitting (proper object of the appetite) and those which shrink from the evil or unfitting (not proper object of the appetite). The first class may be called by the general name CONCUPISCENCE and the second class by the general name of FEAR.

Hence, the reason of the sequence of the present and two following theses, dealing respctively with the subject of Concupiscence, Fear and Ignorance and the influence of these on man's volitional actions.

EXPOSITION

Concupiscence is the tendency of a sensitive appetite towards sensible pleasure.

Concupiscence may be stimulated by a free act of the will, as when a man deliberately broods over an insult received in order to stir himself up to desire for revenge, or when a soldier, on entering a battle, deliberately excites in his imagination a picture of his triumphant return home to his family after victory in order to strengthen his resolution to be faithful to the hard duty then pressing upon him.

Concupiscence may be stimulated independently of the free act of the will, as when at a proffered insult a man experiences a sudden rise of anger, or when the sights and sounds of battle excite in the soldier the military ardor which helps him in the discharge of his duties.

PROOFS

PART I. CONCUPISCENCE DIMINISHES FREEDOM OF ACTION.

That which increases the inclination of the will towards an object and at the same time makes calm intellectual deliberation more difficult, diminishes the freedom of the action performed under its influence.

But Concupiscence increases, etc. *Therefore.*

Major: Freedom is the power which the will has to determine itself, after intellectual deliberation, to choose either of two alternatives, both of which are presented to it in such a way that it is in some way drawn or inclined to them. Therefore, anything that makes one of these alternatives exert a stronger "pull" on the will, so that it is the more forcibly drawn or inclined thereby to it, clearly makes the exercises of this power of self-determination or self-determined (free) choice more difficult. Moreover, anything that disturbs the intellectual deliberation between the alternatives will necessarily make the exercise of this same power of choice more hampered and so less free.

Minor: Concupiscence is the tendency of the sensitive appetite towards sensible pleasure.

But it is clear that such a tendency—

1) must increase, at the moment when it is experienced, the inclination of the will towards that same pleasure and the object which is seen to afford said pleasure. For the will is so made that it must incline towards whatever is perceived to be desirable and such a pleasurable object, simply because it is pleasurable at least to one of man's faculties (sensitive appetite), is here and now perceived to be desirable;

2) must make calm intellectual deliberation more difficult, because this very increase in the sensitive attractiveness of one alternative makes it harder for man to judge, as we say, "dispassionately."

Part II. CONCUPISCENCE MAY DESTROY FREEDOM OF ACTION.

That which renders man incapable of reasoning destroys the freedom of the action performed under its influence.

But Concupiscence may render a man incapable of reasoning.

Therefore.

Major: clear from the fact that freedom of action presupposes deliberation, that is, the use of reason.

Minor: evident from history and admitted by everyone. It happens more commonly in the case of strong passions, such as love or anger and with impressionable natures.

Part III. ACTIONS FORESEEN AS AN EFFECT OF CONCUPISCENCE, WHICH ITSELF IS FREELY STIMULATED BY MAN'S OWN WILL, ARE INDIRECTLY VOLITIONAL.

Actions forseen as an effect of a direct volitional act are indirectly volitional.

But actions foreseen as an effect of concupiscence, which itself is freely stimulated by man's own will, are actions foreseen as an effect of a directly volitional act. *Therefore.*

Major: from definition of a volitional act.

Minor: from the idea of concupiscence freely stimulated by man's own will.

COROLLARY

Concupiscence is a strong impulse of the sensible appetite inclining the will to seek some sensible good, or to fly from some sensible evil. When it arises unbidden by the will it is termed antecedent; but when it arises at the command of the will or continues with the consent of the will it is called consequent. As soon as sensible good or evil is perceived, the appetite generally acts instinctively. The first impulse is not free, and consequently not imputable to us. In as far as concupiscence impels the will, it restrains our liberty, and thus lessens our accountability. Yet unless the impulse be so violent as to deprive a man for the time being of the use of reason it does not dispossess our will of the power to refuse consent; hence when the will yields, though its consent may be reluctant, it does so freely and we are responsible.

Violence is an impulse from without tending to force the agent to act against his choice. It cannot affect the will directly—that is the elicited acts of the will for we cannot will that which at the same time we do not will. Moreover no material force can reach or touch the will. But violence can sometimes affect our external actions. In so far as violence is irresistible, we are not responsible for the external act. If however, the will yields a reluctant yet real consent, we are blameable, though in a lower degree than if there had been no reluctance.

What is to be thought of one who broods over an insult if he foresees that such brooding will lead to other evil consequences?

Is such a one responsible for the consequences of brooding over grievances?

What is to be thought of one who reads immoral books or atheistic books or attends immoral plays if he foresees that such acts will stir up in his soul evil propensities? Is he responsible for the consequences?

THESIS IV

Actions performed through fear are volitional, but they may be in a certain respect non-volitional.

EXPOSITION

Fear is a dread felt because of the apprehension of some danger.

Fear is grave, if felt at the apprehension of some serious danger.

Fear is grave absolutely, if felt at the apprehension of danger serious enough to affect an ordinary courageous and constant man.

Fear is grave relatively, if felt at the apprehension of some danger which to this person here and now seems serious.

Fear is slight, if felt at the apprehension of a danger not serious.

Through fear: for there is not question of actions done merely in or with, but of actions done in consequence of fear, actions which would not be done were the will not induced to their performance by fear, actions, therefore, which can be properly said in some sense to be performed under compulsion.

N.B.—It is clear, however, that there can be no intention of discussing actions which are done under strict physical compulsion, for such are not even voluntary, nor actions done under the influence of such fear as deprives the agent, at the moment of action, of the use of reason and so of the power of deliberation, for such actions are evidently lacking in freedom and therefore not volitional.

To have a clear understanding of just what the two propositions of this thesis mean, it is necessary to make here a further analysis of the volitional act.

A simply volitional act is an act to which the will here and now in view of all of the circumstances, definitely and efficaciously determines itself, either with or without an accompanying inefficacious, though actual, tendency away from this same act. Such inefficacious, though actual, tendency on the part of the will, is called a VELLEITY.

In other words, the volitional act may be either entirely and in

every respect volitional or it may be only partially and in some respects volitional, in other respects and partially non-volitional. The examples given in the course of the following proofs will make this distinction clearer.

The meaning, therefore, of the thesis is that actions, performed through fear, are simply volitional actions, i.e., done with knowledge and freedom, even though they would not have been done were it not for the fear in question. At the same time, however, such actions may not always be, in fact usually are not, done except with an accompanying contrary velleity and are not therefore in every respect volitional, but with respect to that element, from which the will actually, though only inefficaciously, shrinks, they are non-volitional.

PROOFS

Part I. ACTIONS PERFORMED THROUGH FEAR ARE VOLITIONAL.

Actions which, under given circumstances, are done with knowledge and free will are volitional.

But actions performed through fear are, under the circumstances, done with knowledge and free will. *Therefore.*

Major: clear from definition and description of a simply volitional act.

Minor: clear from examples: A merchant, in a storm at sea throws his cargo overboard. He knows fully what he is doing, and chooses to do it under the circumstances. He makes the sacrifice in order to avoid what he regards as a greater loss, the loss of his life. So, also, will one take a bitter medicine to avert a dangerous illness. In both cases there remains an aversion to the thing which is done—the throwing away of the goods and the taking of the medicine. Still both are volitional, as the person retains the power not to do them.

Part II. ACTIONS PERFORMED THROUGH FEAR MAY BE IN A CERTAIN RESPECT NON-VOLITIONAL.

Actions which are done reluctantly and with a certain amount of repugnance of the will, in other words, with a velleity to the contrary, are in a certain respect non-volitional.

But actions done through fear are such. *Therefore.*

Major: clear from description of what is meant by actions which, though simply volitional, are in some respects non-volitional.

Minor: For unless the danger were apprehended, these actions would not have been done; for example, the merchant, in a storm at sea, would not throw overboard his cargo unless he feared a greater loss, the loss of life. The act of throwing is therefore done with a repugnance and a contrary velleity.

COROLLARY

The positive law often invalidates an act which is done from fear not because the act which a person does from fear, is not voluntary in itself, but because it is for the common good that an act so done should be invalidated in certain cases. The conditions generally required for such invalidation depend upon the particular forms of legislation and the kind of act that is being legislated for. There is however, one condition that is generally regarded as necessary in all such cases—namely that the fear which invalidates such an act must be excited by some one directly and wrongfully, and for the express purpose of obtaining consent to the act in question.

Thus the Church invalidates marriages that are contracted through such grave fear, and the State invalidates last wills that are made under like fear. Recall the recent nullification of the Vanderbilt-Marlborough marriage by the Church. Many instances can be cited where the civil courts have nullified wills made under such conditions.

THESIS V

What is done through invincible ignorance is not volitional. But what is done through vincible ignorance is volitional at least indirectly or in cause.

EXPOSITION

Ignorance is absence of knowledge in one who has the faculty of knowledge.

N.B.—Ignorance must not be confused with ERROR or MISTAKE, which is a false judgment concerning something. Ignorance is divided with reference to the object not known:

Ignorance of LAW is absence of knowledge of the law's existence or of the law's comprehension of this particular case.

Ignorance of FACT is the absence of knowledge of either the substance or some circumstance of the thing wished or done.

For example: One who makes a contract with a demented person, not knowing that by law such a contract is invalid, acts in ignorance of law.

One who makes a contract with a demented person, not knowing that the person is demented, acts in ignorance of fact.

Ignorance is divided with reference to the subject not knowing.

Ignorance INVINCIBLE or unavoidable is absence of knowledge under such circumstances that the knowledge cannot be attained.

Ignorance invincible physically is absence of knowledge under such circumstances that the knowledge cannot be attained by any amount of care and diligent effort.

Ignorance invincible morally is absence of knowledge under such circumstances that the knowledge cannot be attained by such amount of care and diligence as ordinarily prudent and good men would feel obliged to put forth in the circumstances.

Ignorance VINCIBLE or avoidable is absence of knowledge under such circumstances that the knowledge can be attained, and attained without extraordinary effort.

PROOFS

Part I. WHAT IS DONE THROUGH INVINCIBLE IGNORANCE IS NOT VOLITIONAL.

What is done through invincible ignorance is unknown and unknowable.

But knowledge is essentially required for a free and voluntary act.

Therefore whatever is done through invincible ignorance is not volitional (i.e., neither free nor voluntary.)

Part II. WHAT IS DONE THROUGH VINCIBLE IGNORANCE IS VOLITIONAL AT LEAST INDIRECTLY OR IN ITS CAUSE.

This ignorance could have been removed if we had so willed; hence it is voluntary. Now as any deordination in the act performed as a result of this ignorance, is caused by our voluntary ignorance, it becomes voluntary in cause. Hence being responsible for the ignorance, we are responsible for the results of our ignorance.

Thus in a baseball game an umpire who makes wrong decisions due to ignorance of the rules is blameworthy because he should know the rules. Being responsible for the ignorance of the rules he is likewise responsible for the mistakes which follow as a result of his ignorance. He may not have willed the mistakes directly but he willed the cause of his mistakes, his ignorance by neglecting to learn the rules. His mistakes were voluntary indirectly, or voluntary *"in causa."*

OBJECTIONS

1) A man who unknowingly drinks poison wills to drink. Therefore this act is free and volitional because he knows what he is doing and wills to do it.

Answer: I concede that he wills to drink but I deny that he wills to drink poison. Under the former aspect the act is free but under the latter aspect it is not free.

2) Invincible ignorance is rejected when offered as an excuse in civil tribunals.

Answer: Human judges, unlike the divine Judge, cannot see

our thoughts. They are thus forced to consider presumptions of guilt, and it is presumed that a law duly promulgated is known to all.

CONFIRMATION OF PROOFS

What is done through vincible ignorance, though not actually known here and now, nevertheless ought to have been known and in a certain manner is known in the cause voluntarily, and freely put by us. Hence we will the act at least indirectly, inasmuch as we will the ignorance of which the act, is a necessary consequence. The act is voluntary in its cause, that is, in the voluntary ignorance that led to it. Moreover. when one adverts to his ignorance, and does not take such measures to correct it as the gravity of the case demands, he thereby voluntarily accepts the consequences that follow from the neglect of the care due to the gravity of the case.

"Suppose a man sets up as a surgeon, having made a very imperfect study of his art. He is aware that for want of knowledge and skill, he shall endanger many lives; still he neglects opportunities of making himself competent, and goes audaciously to work. If any harm comes of his bungling, he can plead intellectual error, an error of judgment. For the time being he did his best as well as he knew it. Doubtless he did, and in that he is unlike the malicious maker of mischief; still he has chosen lightly and recklessly to hazard a great evil. To that extent his will is bound to the evil; he has chosen it, as it were, at one remove."—Rickaby, Moral Philosophy, p. 28.

APPENDIX

The following tests will add to the interest of the principles considered in the three foregoing theses. Most of these cases are given in Coppens, *Moral Philosophy*, pp. 51-54.

1. During a Fourth of July celebration a thoughtless citizen, Mr. Jones, lit a giant firecracker and threw it into a dense crowd of people. It fell on Mr. Smith and was quickly tossed to Mr. Thomas, Mr. Henry, and Mr. Martin. It exploded, breaking the ear drums of the last and causing permanent deafness. At the trial which followed, Mr. Jones pleaded that he was ignorant of the dangerous nature of the giant firecracker and that he could not be held responsible for the accident to Mr. Martin since he did not throw the firecracker in the direction of that gentleman. Who was responsible for the injury done to Mr. Martin?

2. Miss Lucy, a stenographer, answered an advertisement and stated that she knew bookkeeping and accepted a position in a

large store. After a few days she became aware that her work was wrong and that it would lead to a loss to the firm. Moreover, her want of knowledge was due to the fact that she had neglected the study of bookkeeping during her course. She continued to hold the position for some weeks until dismissed for incompetency. She was well able to pay the firm for the loss incurred by her carelessness, but argued with herself that she did not make the mistakes willingly. Was she responsible to the firm for the loss?

3. Edward, a young man, determined to rob a cash register, which he knew was usually left in a certain store after business hours. After forcing his way into the store, he found the money had been removed from the register. Moreover, he was frightened away by the footsteps of the night watchman. Since he did not steal anything, he tried to convince himself that he had committed no wrong.

4. Thomas, a young boy of fourteen, was ordered by his drunken father to steal ten dollars from a store. He was caught in the act and pleaded that he was not guilty since the fear of his father caused him to take the money. Was Thomas guilty?

5. Mary, a rich young lady and the heir to a great fortune, was forced into a marriage unwillingly by her mother. The mother positively forbade her to see any other young man, practically locked her up, threatened to disinherit her, to create a scene and even to commit suicide, unless the marriage went through. Mary was of a timid disposition and was very unwilling to marry the young man, but did so to avoid trouble. Was the marriage a valid one?

6. Peter, an old man, was dying and made a will in favor of one of his sons because this son frightened the old man into making the will thus. Was the will valid?

7. Peter, a boy of twelve, was dragged by his drunken father into a store and forced to put his hand into a cash register and take out the money. Was Peter guilty of theft?

8. Though only slightly provoked, Henry, a young man of a very irascible temper, struck a companion with a club and killed him. During the trial which followed, Henry's lawyer and mother both testified that from childhood he was subject to fits of anger and that his unchecked habit of anger grew until it entirely over-

powered him. Consequently they claim that he was not responsible for the act of killing.

9. John frequently makes use of profane language. He pleads that he is not responsible because profanity is now a habit.

10. Elizabeth has an aversion for a companion at school, an aversion that she has permitted to grow, until she claims that she can no longer remain in the presence of her girl friend without insulting her. Elizabeth contends that she can no longer control her feelings or her words; but she admits that she deliberately harbored these feelings of aversion and has strengthened them. Is she responsbile for the insults which she offers her companion?

11. In the mountains of Kentucky, ten miles away from any other family, lived the Barnes. John Barnes, who was twenty-three years old, went to a village four months after the draft in the late war and was arrested for being a slacker. He claimed that he knew nothing of the war. None of his family had met anybody during that time. Could Mr. Barnes be held responsible for not enlisting?

John was asked by his teacher whether Mars was inhabited. He replied that he did not know. What kind of ignorance was this? Explain.

A student at college was attending a football game and was asked concerning an intricate play and decision of the game. He admitted that he did not know the rule covering this play. Was his ignorance vincible or invincible? If invincible, was it physically or morally invincible ignorance?

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II. THE END

THESIS VI

The absolutely ultimate intrinsic end of man's volitional activity is blessedness or beatitude.

EXPLANATION

End is that for the sake of which or on account of which something is done.

An end or final cause is called a motive when looked at as that which induces us or moves us to action; it is called a purpose when looked at as the object or state which the action is intended to attain.

N.B. Distinguish clearly between the concept of end and the concept of means. An end is always a thing desirable for its own sake, whereas a means is a thing which is desirable not for itself, but for the sake of something else to which it leads. Thus money is not desirable for its own sake but is desired on account of what it can procure for us. Therefore money is a means. When, as often happens, one and the same thing is apprehended to be desirable in itself and also as leading to something else, then that thing shares the nature of both end and means.

DIVISION OF ENDS.

End of action or work is that result in which the action of its nature terminates or to which the work of its nature tends.

Every action of its nature terminates in some special result; everything that is done or made has some definite nature and through that nature is fitted for some definite use; this result or use is said to be the end of the action or work or deed.

End of the agent is that purpose freely chosen by the agent or doer or worker and for the sake of which the action is performed. Thus in the case of a watch the end of the work is to keep time

because that is what a watch is by its nature destined to do. The end or purpose of the agent will vary. It may be to obtain fame.

Intrinsic end is that end realizable within the nature of a thing itself.

Extrinsic end is that end realizable outside of the nature of a thing to which the state of intrinsic perfection is itself directed or ordained by the author of the nature of the thing.

Thus the intrinsic end of an aeroplane is to fly. The extrinsic end of an aeroplane is to carry passengers or mail according to the use it is put to. It no more belongs to the intrinsic nature of an aeroplane to carry mail or passengers than it does to an automobile or any other vehicle.

Proximate or immediate end is that on account of which anything is immediately done or intended.

Intermediate end is that on account of which a proximate end is sought or intended and which itself is, in turn, sought or intended for some further purpose.

Ultimate or last end is that for the sake of which all other ends are sought, at least within a certain sphere of activity, and which itself, is not sought with a view to any further end, at least within the same sphere of activity.

Thus I study in order to obtain a prize, in order to please my parents and finally in order to please God. The prize is a proximate end; to please my parents is an intermediate end and to please God is my ultimate end.

Relatively ultimate end i.e., within a certain sphere of activity, is that for the sake of which all other ends are sought within a certain sphere of activity. Thus health is a relatively ultimate end, because it is the last end in the physical order.

Absolutely ultimate end i.e., for the whole range of an agent's activity, is that for the sake of which all other ends are sought within the entire range of that agent's activity and which itself is not referred to any further end because of its nature it cannot be thus referred. Thus perfect happiness is the absolutely ultimate end of man.

N.B. Evidently this division of ends into proximate, inter-

mediate and ultimate is not found in the case of every action. An action may be performed for only one end; in this case the end is both proximate and ultimate and there is no intermediate end. Or it may be performed for an end which is referred to one other; in this case the first is a proximate end, the second, an ultimate and again there is no intermediate end.

There may be as many relatively ultimate ends as there are different spheres of activity which are not, though they could be referred in their results to some further end. But as we shall see in this thesis, there can be only one absolutely ultimate end, one, namely, which cannot be referred to any other end and to which all others must themselves be referred.

Beatitude (perfect happiness) is the stabile and enduring possession of the supreme and perfect good.

Nature in general is the essence of a thing considered as the principle of operation of a thing. In other words it is the very being of a thing in as much as it is disposed and inclined to a certain mode of operation. Thus the act of reasoning belongs to the nature of man. It does not however constitute the essence of man because a man does not cease to be a man when he ceases to actually reason as when he sleeps.

Appetite in general is the disposition, inclination or tendency towards any action and through that action towards the attainment of some object.

An innate appetite is a natural tendency towards some object, which we have in common with every being in creation. The innate appetite arises from an internal principle and functions without knowledge. Thus a tree has an innate appetite to blossom; minerals such as iron have an innate appetite to exhibit certain properties of color, form and weight. Man has an innate appetite to preserve his life.

An elicited appetite is a positive tendency towards some good apprehended by the senses or the intellect. It functions with knowledge.

THE MEANING OF BEATITUDE

Beatitude may be considered wholly indeterminately and in

general, that is we may consider it in the abstract, apart from the particular object by which it is effected or brought about, and apart from the manner or mode of activity by which the object is attained or possessed; or we may consider beatitude in the concrete, that is, we may consider what that object really is that constitutes our beatitude and how it is actually attained. Here we consider beatitude in the former sense, that is, we consider beatitude in general and in the abstract. Neglecting for the time being what precisely it is that constitutes man's beatitude and how precisely it is attained, our question here is simply: "Is man destined by nature for beatitude?"

Beatitude or blessedness is either natural or supernatural. It is natural if it corresponds to, but does not exceed, the natural exigencies and powers of man; it is supernatural if it exceeds the natural exigencies and powers of man. It is natural if man has a natural right to it, so that God would contradict Himself if He were not to grant that state of blessedness to a man who does everything in his power to attain it; it is supernatural if a man has no natural right to it, but is due to a pure act of benevolence of God, inasmuch as God in His infinite love and goodness has raised and elevated man above his natural powers and capacities. In our thesis there is a question only of the state of natural beatitude. Hence the meaning of the thesis is this, if we abstract from the supernatural order to which, according to the teaching of our faith, man has as a matter of fact been elevated, and consider him, from the purely natural standpoint as a rational sentient being and endowed with those powers and exigencies of mere nature which both reason and experience assure us he actually possesses, man is destined by His Creator to attain the state of beatitude proportioned to the capacity and exigency of his nature, and he will consequently enjoy perfect happiness.

The difference between a natural and supernatural end may be illustrated by an example. A chauffeur is hired to drive the car of his employer. He is a servant. He has no right to share in the intimate family life of his employer. His contract naturally calls for wages and nothing else. In the case of man and God, man is essentially a servant and has a right to wages only and his wages are natural happiness. He has no right to be called a son of God and a brother of Jesus Christ and to share in the divine nature.

ADVERSARIES

Kant who holds that the final end of man is a constant progress towards infinite good and perfect happiness never attainable. This is at variance with our argument. Besides, Kant admits that man can never be certain either in this life or the life to come that he will persevere in this progress towards greater perfection. Ahrens teaches that the final end of man consists in the complete evolution of all his faculties. This evolution of our faculties, according to Ahrens, is an end in itself. This is absurd, for no one progresses for the sake of progressing but for the purpose of arriving at an end. Schleiermacher and Wundt hold that the perfection of the human race is the supreme end of man. This is at variance with the natural dignity of man and his inborn longing after personal happiness.

PROOF

(From our inborn longing after happiness.)

Man has an inborn longing after perfect happiness. *But* it is at variance with the divine attributes that man should have this longing and not be destined for perfect happiness.

Therefore man is destined by God for perfect happiness.

Major is proved from the fact that we have a natural capacity for and are naturally inclined towards happiness. We have a natural capacity for perfect happiness, for happiness without any limit, because the intellect and will are objectively infinite. The intellect can take in all truth or at least can reach out to truth indefinitely and the will can reach out to good indefinitely. We are naturally inclined towards happiness because every power has a natural tendency towards its formal object.

The intellect cannot rest as long as there is anything which it can know and the will cannot rest as long as there is anything which it can desire.

Again all men frequently long for perfect happiness. This elicited longing for happiness is constant, uniform and necessary. Now a constant, uniform and necessary elicited appetite for perfect happiness presupposes a natural longing (an innate appetite). Therefore man is naturally inclined towards happiness.

Minor: It would be at variance with the veracity of God to

lure man on towards perfect happiness if perfect happiness did not exist for man or were unattainable by man.

It would be at variance with the goodness of God to implant in man's nature a desire for something that did not exist.

It would be at variance with divine wisdom to implant in man an appetite which could not be satisfied or would not be satisfied.

Apart from the consideration of God in this matter, if man has appetites which can never be satisfied, then we must concede that human nature is a mockery, and life is unreasonable.

COROLLARIES

I. Appetites may incline to ends in various ways, either consciously or unconsciously, vitally—that is, as a result of living forces—or non-vitally. The animal's desire for food is a conscious inclination; the tendency of the tree to flower is unconscious; assimilation and growth in plants and animals are vital tendencies; gravitation and the tendency of a crystal or of iron to exhibit certain properties of color, form and weight are non-vital tendencies. But any tendency, conscious or unconscious, vital or non-vital, is what is meant by appetite.

Appetites are divided into two classes—physical and psychical. Physical appetites are those that spring immediately out of the nature of a thing and have no dependence on knowledge. Psychical appetites are those which, though possibly grounded in nature, yet depend on and proceed from knowledge. Of these psychical appetites there are two kinds, sensitive and intellectual, according as the knowledge from which the appetite proceeds is sensitive or intellectual.

From what has been said it is clear that the physical appetite is not necessarily a vital act, but a certain inclination, a certain gravitation as it were of nature towards its term or the end implanted by the Creator. Moreover, it is found not only in cognitive beings, but also in inanimate objects, and since it is a natural tendency of a thing, it is as permanent and enduring as nature itself, i.e., it will remain in the subject as long as the being remains what it is. Finally, this physical appetite does not mean a mere capacity, but is a positive tendency and inclination, by which the nature is drawn towards what is good for it.

Such a physical appetite is properly said to be natural to or innate in the being which has it.

II. Since the will is man's supreme faculty, his specifically characteristic and dominant tendency, to which all his other tendencies or appetites are by nature subordinated, it follows that the proof of this thesis is exactly a proof that the absolutely ultimate intrinsic end of man himself is BLESSEDNESS.

III. It is certain that there is some object which is capable and sufficient to make man fully and completely blessed, i.e., which is capable and sufficient fully to satisfy man's rational desire for perfection and happiness. It is equally certain that every man is, as far as God is concerned, able to reach, possess and enjoy this object.

IV. By reason of their natural and innate appetite, all men seek the same ultimate end, although, by reason of their elicited appetites, they seek different and diverse proximate ends. For all wish to attain the fullness of well-being and perfect happiness, but they seek and think to find this fullness of well-being and perfect happiness in very different things: some in wealth, some in honor and fame, some in sensuous pleasure, some in power, etc.

V. Man ultimately aims at final perfection and happiness in all he does, whether his will acts with deliberate choice, or naturally, spontaneously and without deliberation. His own perfection, his own happiness is the end which is always intended by him; at this he ever aims. The very crimes which he commits are committed because by perversion of his reason he has persuaded himself that they will, either directly or indirectly, procure for him the well-being and happiness which he is seeking. From that end he cannot, by any physical possibility, avert his will; for his well-being and happiness is the proper object of his will, just as color is the connatural and proper object of vision; and no faculty can turn away from its own specific object to one which is totally separated from its whole sphere of action. Hence, all that a man desires is desired on account of his ultimate end or perfect well-being and happiness. For the ultimate end is related to movements of our appetite, as the first mover is related to other movements. But in other movements, the secondary or subordinate movers act by virtue of and in so far as they are moved by the prime mover. Therefore, also, it is by virtue of the ulti-

mate end that subordinate and intermediate ends are able to move our wills; consequently, whatever else man may desire, he desires it on account of the ultimate end, or perfect well-being and happiness, that is, he desires it as leading or as seeming to lead to perfect well-being and happiness. This principle that everything is done with a view to the ultimate end, that is, final perfection and happiness, does not mean that in each act that we perform we must actually and explicitly think of the ultimate end. A man does not think of the end of his journey at each step. It means simply that each end is sought in virtue of our ultimate end, as each step in walking is taken in virtue of the end which we desire to reach in walking.

VI. In accordance with the principle explained in the foregoing corollary the philosophical axiom is to be understood and interpreted, *"finis non cadit sub electione"*—"the end does not fall under our choice," or "the end is not subject to choice." The end here meant is that final perfection and happiness which we ultimately intend by all that we do. All the other ends which man wishes, and to which he tends, regard particular things and hence a particular good; they are subject to choice and are only means in respect to what is ultimately intended by him. To these particular ends, which may be freely intended by way of means, is applied the axiom *"media cadunt sub electione"*—"the means fall under election," or "the means are subject to free choice." Hence man is free in regard to means to the end, but not in regard to the end itself; to the end itself he is impelled by his very nature.

SCHOLIA

I. The rest that is partially or completely afforded a faculty in the attainment of its partial or ultimate perfection, is rest from further striving, seeking or tending, not as is clearly evident in the case of a conscious faculty, rest from the activity of enjoyment. Hence, no real difficulty can be brought from the doctrine of the thesis to the effect that we herein make the last end, and consequently the final perfection of man, who is an essentially active being, consist in mere rest or passivity, the "Nirvana" of Schopenhauer.

Happiness has, on the contrary, been defined, from a correct view of the doctrine of this thesis, as "Cessation from the activity of striving, tending, pursuing; not cessation from the activity of enjoying."

II. It is important to remember that this innate desire of man for Blessedness is the desire of a being who is not subordinated to any other being in the order of created things. Therefore, it follows that the satisfaction of this desire through the actual attainment of Blessedness is not conditioned upon the utility of any higher order of creatures. The contrary is precisely what is true in the case of irrational creatures. The attainment of their intrinsic end is always conditioned upon the utility and service of man for whom they have been made. For example, the fullest satisfaction of an animal's appetite for sensible good is not necessarily attainable by every animal because the animal, with all its natural appetites and powers, is intended by nature to be subordinated to the good of man. Man, on the contrary, is subordinated to no one but God, his Creator, and, as we have seen, God's purpose in creating—His external glory—is to be secured precisely through the attainment by man of his natural desire and happiness.

III. "On several occasions in the past, humanity has seemingly won its upward struggle and been blessed with power and plenty. There were the days when Alexander carried Greek culture everywhere. Alexander finished the conquests begun by Philip his father. He conquered Egypt, and humbled all of India that could be reached. Nowhere in the world was there any organized power to give him the stimulus of a good fight. He was supreme master; he was not yet 30, and there was no more. In a pathetically tragic search for contentment he threw himself into wild excesses. But in the doing of them there was no inner peace. 'There are no more worlds to conquer,' he exclaimed, and weeping, he threw himself into a drunken debauch. Being tired of living, he died.

"Let us glance at another prosperous period and another king, a 'son of David.' His book describes his efforts to find happiness and contentment in life. He began by studying all the books and seeking wisdom from every source. He thought this would give him peace, but he found that he was less happy than before.

"For in much wisdom is much grief: and he that increaseth knowledge, increaseth sorrow."

"He set forth then on another tack. He would seek pleasure; life was a joke without meaning. But there was no comfort at the end of this path either. So he threw himself into industry. He

made great works; he built houses; he planted vineyards; he had servants and great possessions.

"Like Alexander he had youth, wealth, fame, health, physical and mental delights. But, says he: 'I looked on all the works that my hands had wrought, and on the labor that I had labored to do; and behold, all was vanity, and vexation of spirit.'"

"A discouraging confession from one who had tried all the things that the rest of us are trying so hard to obtain. Is this the top of the ladder? Is this to be the last chapter in human life when every want is satisfied; tears and drunkenness because there are no more worlds to conquer; vanity of vanities, vexation of spirit?

"A clever writer, Maeterlinck, considers the life of a dog. He says that the dog does not spend much time looking at the sky; one glance is enough to show him that there is nothing that he can dig out of the sky. But the earth may be dug into and interesting objects found therein.

"Man also digs in the earth; he must dig or he cannot live. But man has not been content, as has the dog, with a single upward glance. Delving away with aching arms, always pushing forward in the battle for existence, he has continued to glance up. Reason has convinced him that he is more than the beasts; that behind the riddle of the stars there is an answer, behind the sun and the storm there is a power and a being who can satisfy man."[1]

DIFFICULTIES[2]

Obj. 1. The brutes have a natural appetency for happiness. But this appetency is not satisfied. Therefore, it is not repugnant that natural appetence should remain unsatisfied.

Reply. Dist. Maj.: The brutes have a natural appetency for perfect happiness, neg. maj.; for imperfect happiness, that is, for an indefinite series of sensuous pleasures, sd.; absolutely and without any reference to the utility of man, neg. maj., subordinately to the good of man and as it were conditionally, conc. maj.

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[1]Cf. Article by Bruce Barton in *Collier's Weekly* for April 9, 1927.

[2]The Difficulties and their solution found here and subsequently in these pages are for the most part taken from Cathrein, *Philosophia Moralis*, and arranged by Fr. Frederick Meyer, S.J.

"A natural appetency or desire cannot be useless." (S. Th. 1, q. 75, a. 6.) But man's natural and innate desire for final perfection and happiness would be void and useless, if he were not destined to attain this state of final perfection and happiness. The same cannot be said of the innate appetite of the brutes for its object, nor of the innate sensuous appetite in man; because these are but means in reference to the rational tendency of man and do not absolutely seek and desire sensible goods, but only, as it were, conditionally, that is, only in so far as they are in accord with, and suitable to, man's higher nature. Hence, these appetites for sensible goods are not void and useless even though they do not obtain every single good of which they are capable. On the other hand, the rational tendency of man is not subordinated to any higher tendency. For man is, it is true, destined and ordained for the extrinsic glory of his Maker, but not for His utility or benefit, since God cannot possibly derive any utility from His creatures. Hence, if man's innate tendency or desire for final perfection and happiness were incapable of being realized, God would have implanted in his nature a longing or appetite that is useless and in vain.

Obj. 2. Man's desire for health, wealth, knowledge, culture, etc., frequently remains unsatisfied. But these desires are natural. Therefore, natural desires can be frustrated.

Reply. Conc. maj. Dist. min.: These desires are natural in the sense that they are a necessary and inevitable outcome of man's nature, neg. min.; in the sense that they are subordinate to the desire for final perfection and happiness, conc. min. Dist. Concl. Natural desires that are subordinate to some higher desire may remain unsatisfied, conc. concl.; a natural desire which is innate and not subordinated to any higher desire may remain unsatisfied, neg. concl

Obj. 3 If a natural innate desire cannot remain unsatisfied, all men, the wicked and the evil-doers included, will attain to perfect happiness. But this is opposed to reason. Therefore, a natural innate desire may remain unsatisfied.

Proof of major. All men, the wicked and the evil-doers included, have a natural innate desire for perfect happiness. But this desire, it is assumed, cannot remain unsatisfied and thus be in vain. Therefore, if a natural innate desire cannot remain un-

satisfied, all men, the wicked and evil-doers included, will reach final perfection and happiness.

Reply. Dist. maj.: It will follow that all men, the wicked and evil-doers included, are destined for final perfection and happiness, conc. maj.; it will follow that all men will actually attain final perfection and happiness, sd.: if they are absolutely destined for it, conc. maj.; if only conditionally destined for it, neg. maj. Cd. min.

To the proof of maj.—Conc. maj. Dist. min.: This desire cannot remain unsatisfied in the sense that a being possessing such a desire must be able to reach the term of its desire, or must be destined to reach it, conc. min.; each individual nature must actually reach that which it desires and is destined for, sd.: if absolutely destined for it, conc. min.; if only conditionally destined for it, neg. min. Dist. concl.

Man is absolutely destined to give extrinsic glory to God and this end every man will infallibly attain. He is conditionally destined for final perfection and happiness; and this end also man **will infallibly attain on condition that he cooperate with the benevolent intention of his Maker.**

Obj. 4. No one can tend to what he does not know. But many do not know what final perfection and happiness really are. Therefore, they cannot tend to final perfection and happiness.

Reply. Trans. Maj. Dist. min.: Many do not know what final perfection and happiness in general are, that is, they do not know what that indeterminate something is to which they tend and which they seek in everything they do, neg. min.; do not know in what specific object final perfection and happiness consist, conc. min. Neg. concl.

We transmitted the major, because it is not universally true; it is true only of elicited psychical appetites, not of physical innate appetites, since these latter do not depend upon cognition, but are the essential gravitation of the will towards its connatural and proper object.

Obj. 5. The same individual acts now for glory, now for gain, now for love, etc. But these different ends are not necessarily connected with final perfection and happiness. Therefore, man does not naturally tend to final perfection and happiness.

Reply. Dist. maj.; The same individual acts now for glory, now for gain, etc., because he thinks these things will lead to his final perfection and happiness, conc. maj.; otherwise, neg. maj. Contrad. min. These ends are not necessarily connected with final perfection and happiness in the mind of him who seeks them, neg. min.; in themselves they are not necessarily connected with final perfection and happiness, conc. min.

Obj. 6. Men seek as their ultimate end most different and diverse things—some, eating and drinking; some, the heaping up of money; some, political power; some, reputation of one sort or another. But these different ends are not compatible with final perfection and happiness. Therefore, the absolutely ultimate end of man is not final perfection and happiness.

Reply. Dist. maj.: Men seek these things by the innate tendency of their wills, neg. maj.; by elicited appetite, sd.: because he who seeks any one of these particular things, thinks he will, by its means, in some way reach final perfection and happiness, conc. maj.; otherwise, neg, maj. Contrad. min. These different ends are not compatible with final perfection and happiness in the minds of those who seek them, neg. min.; in themselves they are not compatible, conc. min.; Dist. Concl. Man does not tend to final perfection and happiness by innate appetite, neg. concl.; by elicited appetite, sd.: does not tend to that which he thinks will lead to final perfection and happiness, neg. concl.; does not necessarily tend to that which leads to final perfection and happiness, conc. concl.

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THESIS VII*

The final perfection and happiness of man consists in the perfect knowledge and love of supreme truth and supreme goodness, that is, God.

INTRODUCTION

We have seen that the ultimate intrinsic end of man's volitional activity is the final perfection and happiness of his nature. It follows, as a necessary consequence, that there is some object or objects in the attainment, possession and enjoyment of which man will find this perfection and happiness. Is it possible to determine this object and to say in what it consists? Many recent evolutionary philosophers hold that it is not possible. They say that though we may determine the kind of action that will promote our final end, it is nevertheless not possible to determine the end itself or to say in what it consists. This view is contradicted by both experience and by reason. For man's highest appetites, by which he tends to his final end, are within himself; they are conscious and they are known to him, and therefore, being conscious movements to certain ends, the ends of these appetites are also determinable even before these ends are attained. If this were not the case, if we did not know the ends of our conscious appetites prior to their attainment, we could not move to their attainment. Since, therefore, our highest appetites and their objects are known to us, it is possible to determine our final end.

We may not, indeed, know everything about our final end—its constitution and the place and time of its attainment—just as whilst knowing that the object of hunger is food, we need not know the chemical constitution of food. But there is nothing to prevent our being able to determine the function and object that constitutes our final end, in so far at least as that end is necessary to the full and adequate satisfaction of our highest natural appetite; for the highest natural appetite will consist of a conscious tendency to a certain end, and consequently it is not possible that we should not know in what that end consists.

*The exposition and arguments of this thesis as given below are substantially the content of Cronin, *Science of Ethics*, Vol. I., pp. 55-70.

EXPOSITION

To the question—"In the attainment of what object or objects is man's final perfection to be found?"—different answers have been given. We shall first group together the answers which are false and give a brief refutation of each, and then state and prove the correct answer.

A.—FALSE ANSWERS.

a) Some philosophers have identified the final objective end of man with certain finite external objects, or goods of fortune, e. g., money, honor, or power.

That these finite external objects cannot constitute the final objective end of man will appear from the following general argument of St. Thomas:

The final end must fill up the capacity of the will for desiring (*quietare appetitum*).

Now, that which fully satisfies the will must, first, exclude from the will the possibility of unhappiness, but finite external goods can be possessed along with unhappiness; secondly, the final end must give us all that we desire, but finite external goods still leave much to be desired v.g., knowledge; thirdly, it must not of itself make us unhappy, but money and honor are often themselves the root of misery; finally, our highest natural end must be a good to which we tend necessarily, but external finite goods are not necessarily desired. They often come to us without our desiring them, and accidentally, and they are then called, not natural acquirements, but goods of fortune.

Our final end, therefore, does not consist in such goods as riches or honor or power.

b) Other philosophers, for instance, the Epicureans, maintain that the final objective end of man consists in some good of the body as bodily health or strength.

This opinion is certainly false, because the body and its excellencies are only part of the human good, and the lesser part. Besides, man's highest good must certainly be a something in which he surpasses the brutes, whereas there is no bodily good in which he is not surpassed by many animals. The elephant, as Aquinas remarks, surpasses man in length of life, the lion in

strength, the stag in swiftness, etc. Finally, goods of the body are unsatisfying, in the absence of goods of fortune, and, like these, are possessed or lost without relation to moral life.

c) Hedonists, like Hobbes, Aristippus, Mill, Spinoza, Butler, and others, hold that the final natural end of man consists in pleasure.

This opinion cannot be admitted, and for the following reasons: The fundamental and primary natural object of our will, as of any other faculty, represents its final natural end.

But pleasure is not the fundamental and primary natural object of our will, but some other object outside our wills.

Therefore, pleasure is not our final natural end.

That pleasure is not the fundamental primary object to which nature directs our wills is known from the fact that in the order of nature, desire for an object outside the will is prior to all other desires, even the desire for pleasure. For the will and the appetites follow cognition. We desire that which we know; and we naturally desire first what we know first. But the primary and natural objects of our understanding are external things, not states of the understanding itself, of consciousness, or of will. Hence, the primary objective end of the natural appetites is external to the appetite and not within it. Pleasure is something that follows from the possession of some external good, and hence does not constitute it.

d) Again, others, for instance, the Stoics, claim that the final objective end of man consists in goods of the soul as knowledge, love and virtue.

But these goods of the soul cannot constitute the ultimate objective end of man; because they are not desired for themselves; they are desired as means to an ulterior end. Moreover, they are subjective goods, whereas the will desires something beyond itself. Finally, they are not in themselves completely satisfying; their capacity for rendering blessed depends on the capacity of the objects, with which they are concerned, for adequately satisfying man's final tendency, that is, knowledge, love and virtue can render man blessed, provided that the objects with which they are concerned can fully satisfy man's final tendency.

e) Kant and his followers maintain that the final objective end of man consists in holiness with its attendant happiness.

Now, holiness may mean righteousness of life. And so understood, it is not our final end itself, but only direction to our final end. And the happiness that results from holiness, or peace of conscience, supposes that our final end is either aimed at or is already attained, and, therefore, is not itself our end. Holiness, on the other hand, may mean virtue; but in that sense it is only a means to good acts, and hence cannot be our final end.

f) According to some modern Evolutionists, the final objective end of man consists in self-realization; according to others, it consists in the culture of the individual or of the race; according to still others (Herbert Spencer and his followers), it consists in the adjustment of inner powers to outer environment.

REFUTATION

These different theories may be refuted by the general argument that the final objective end of man must be, as our proof will show, some object external to man, and hence it cannot consist in any good of body or soul, nor in any internal good in relation to our surroundings nor in the adjustment of inner powers to outer environment.

As none of the things mentioned above can, when taken singly, constitute the final perfection and happiness of man, so neither can they constitute it in combination, first, because some of them are incompatible, and, secondly, because each is insufficient, not quantitatively only, but qualitatively also. It is clear, moreover, that no one can possess and attain all those finite goods in combination.

B.—CORRECT ANSWER.

Since no particular good (finite good), nor any combination of finite goods, can constitute the final objective end of man, it follows that the object of man's final perfection and happiness can be no other than the Uncreated Infinite, that is, God. We, therefore, claim that in the possession and attainment of God alone can man find the blessedness for which he is destined—that in the possession and attainment of God alone can he find the final perfection and happiness of his nature.

Now, man attains to God and to the possession of God only by rational acts, that is, by the acts of his intellect and will; so that the possession of God consists in the knowledge and love of God.

PROOF

Man's final perfection and happiness will consist in that which

alone is necessary and sufficient fully and completely to satisfy the specific tendency and inclinations of his nature.

But knowledge and love of supreme truth and supreme goodness (i.e., God) are necessary and alone sufficient fully and completely to satisfy the specific tendencies and inclinations of his nature. *Therefore.*

Major: Just as the final end of a tree must be the realization of its full capacities as a tree, so our final end as men must fill up the capacity of the will for desiring. The conscious natural appetites hold the same place in the human constitution that the unconscious appetites hold in the vegetative world. But the final end of a plant will be that which exhausts fully its appetitive capacity. Therefore, the final end in the case of a man will likewise be that which fully exhausts his appetites. "Nothing," says Aquinas, "can be our final end which still leaves something to be desired."

Hence, the object of man's final perfection and happiness must be something which fills up the capacity of his will for desiring—something which is necessary and sufficient fully and completely to satisfy the specific tendencies and inclinations of human nature.

Minor: The specific tendencies and inclinations of man's nature, as manifested in his highest and noblest activity, are intellect and will. Now the connatural and appropriate object of his will is the good-in-general, and the connatural and appropriate object of man's intellect is the true-in-general. Hence, nothing short of supreme truth and supreme goodness can fully and completely satisfy the capacity and inclination of man's intellect and will. That is, the intellect of man will not be sated until it knows all truth and the will of man will not be satisfied until it possesses all goodness.

It is clear, therefore, that nothing but knowledge of God, the supreme and essential truth, the fountain and source of all truth, can fill up the capacity of the human mind and fully satisfy its tendency towards truth; and that nothing but the fruition and love of God, the All-good, the fountain and source of all goodness, can completely fill up the capacity of man's will and fully satisfy its natural tendency towards the good. Consequently, the knowledge and love of supreme truth and supreme goodness alone are necessary fully and completely to satisfy the specific tendencies and inclinations of human nature.

Obj. 1. Blessedness is a state of rest in the possession of the highest and most perfect good, that is, God. *But* such a state of rest in the possession of God is impossible. *Therefore,* blessedness does not consist in the possession of God.

Proof of Minor: To whatever degree man may have attained in the possession of God, he is always capable of a still higher degree and of a still more perfect possession of God. *Therefore,* the state of rest in the possession of God is impossible to man.

Reply. Conc. maj. neg. min.: To the proof of minor: Dist. antec. Man is always remotely capable of a still higher degree and of a still more complete possession of God, conc. antec.; proximately capable, neg. antec.

It is argued in this objection that even when man reaches God he will not be happy for although man has obtained an object beyond which there is nothing to desire still he will always be capable of a higher knowledge of God for no man can fully comprehend God, an infinite being. This very possibility of a higher knowledge of God will make man unhappy.

Answer: When man reaches God he will possess God in some definite degree. We concede this. But we assert that when man does reach this state he will know that any higher or more perfect possession of God is then for him an impossibility and he will rest content with that degree of happiness which he has merited in this life.

An example will make this clear. Two men go to a football game—one a coach and the other an ordinary spectator. Both see the whole game and every play. Both are happy. But the coach has a fuller and keener appreciation of the game than the ordinary spectator because the coach has made the game a life study. The ordinary spectator has a lesser power of appreciating the game but this does not make him at all unhappy because he knows that any higher appreciation of the game is here and now impossible for him due to the fact that he did not make a closer study of the game in his past life.

His proximate capacity for blessedness being thus completely filled up and satisfied, each man would be perfectly happy and blessed, because he would know that greater blessedness was

neither due, nor possible to him, and because his will would, moreover, be in entire conformity with the will of God. Consequently, he neither would nor could desire a higher degree of perfection and happiness.

Obj. 2. Between man and the object of his final perfection and happiness there must be a proper proportion. *But* there is no proportion between God and man. *Therefore,* God is not the object of man's final perfection and happiness.

Reply. Dist. maj.: There must be between them an entitative proportion, that is, a proportion based on entitative likeness, neg. maj.; there must be between them an objective proportion, that is, a proportion consisting in this, that man is capable and destined to find in the knowledge and fruition of that object his final perfection and happiness, conc. maj. Contrad. min. Neg. concl.

Obj. 3. The capacity of a finite faculty can be filled up by a finite good, just as a vessel of limited capacity is filled by a certain limited amount of water. *But* man's intellect and will are finite faculties. *Therefore,* finite good or goods can satisfy the capacity of man's intellect and will.

Reply. Dist. maj.; The capacity of a faculty which is in every respect finite can be filled up by some finite good or goods, conc. maj.; the capacity of a faculty which is entitatively finite, but objectively infinite or unlimited in its scope, that is, which tends to an infinite object, can be filled up by some finite good or goods, neg. maj. Contrad. min.

Obj. 4. The object of man's final perfection and happiness ought to be *per se* most properly proportionate to man. *But* the goods which are *per se* most properly proportionate to man are sensible goods. *Therefore,* sensible goods are the object of man's final perfection and happiness.

Reply. Dist. maj.: Ought to be *per se* most properly proportionate to man's rational nature, conc. maj.; to man's lower or sensuous nature, neg. maj. Contrad. min.

Even according to his rational nature, sensible goods are most proportionate to man, because the objects most directly proportionate to the human intellect are the essence of sensible things. *Therefore,* sensible things are the object of man's final perfection and happiness.

Reply. Dist. min. subs.: Sensible things are most proportionate to man in the sense that they are best adapted to satisfy man's rational tendencies towards truth and goodness, neg. min. subs.; in the sense that they are first and *per se* cognoscible by man, sd.: in the present state of man, conc. min. subs.

Obj. 5. The object of our final perfection and happiness is that which we seek for itself and as the final term of our tendency. *But* we seek pleasure for itself and as the final term of our tendency. *Therefore,* pleasure is the object of our final perfection and happiness.

Reply. Dist. Maj.: Which we seek for itself and as the final term of any appetitive faculty whatever, neg. maj.: of the rational appetitive faculty or will, conc. maj. Contrad. min. We seek pleasure for itself and as our final term, by the sensuous appetite, trans. min.; by our rational appetite or will, sd.: if well regulated neg. min.; if not well regulated, trans. min. (cf. Thesis 10 on Norm of Goodness).

The will is fixed upon the external object primarily, and it is because the will is fixed upon the external object that it desires the state of pleasure or delight which follows on the attainment of its object. In fact every natural craving or desire is primarily directed to an outer object and only secondarily and consequently to the state of itself which that object is to induce, namely, pleasure. Thus the first desire of an animal or of children (the first tendency, for instance, of hunger or thirst)—a desire which is undoubtedly due to the working of the inner nature of the appetite and represents its purely natural operation—is always a desire for some object other than pleasure. For the desire of pleasure can only arise when experience has made known the existence of pleasure, and, since pleasure arises first on the attainment of some end of desire, it follows that pleasure becomes known to us or is first experienced on the fulfillment of or in the obtaining of the object of one's first desire. Hence, pleasure is not itself the object of the first desire of any appetite. It is evident, of course, that man can deliberately pursue pleasure as though it were his final end, but he cannot do so rationally nor by an innate appetite.

Obj. 6. If God were the object of man's final perfection and happiness, all men would tend towards God. *But* this is not the case. *Therefore,* God is not the object of man's final perfection and happiness.

Reply. Dist. maj.: All men would tend towards God if they followed the rational tendency of their nature, conc. maj.; if they do not follow the rational tendency of their nature, neg. maj. Contrad. min.

Obj. 7. The object of man's final perfection and happiness must be something which he can attain in this life. *But* God cannot be attained by man in the present life. *Therefore,* God is not the object of man's final perfection and happiness.

Reply. Dist. maj.: Which he can perfectly attain and possess in this life, neg. maj.; which, by ordering his actions aright, he can merit to attain and possess perfectly in the life to come, conc. maj. Contrad. min. Neg. concl.

Or the major may be distinguished as follows: the object of man's final perfection ought to be something that he can attain in this life if man was made for this life, we concede; if man was not made for this life, we deny the major.

The very fact that nothing in this life can satisfy man is precisely our argument that man was not made for this life. We conclude therefore that man was made for another life beyond the grave.

Obj. 8. The object of man's final perfection and happiness must be such that it can make the whole nature of man happy. *But* God cannot make the lower or sensuous nature of man happy. *Therefore,* God is not the object of man's final perfection and happiness.

N.B.—This difficulty can be urged only against those who maintain that the resurrection of man's body in a future life is not due to man's nature. It is true that this is the more common teaching of philosophers. However, it should be noted that there are some who contend, and in part at least are led to their contention by the force of this very difficulty, that such a resurrection is natural and due to man.

Reply. Dist. maj.: Must be such that it makes the entire nature of man happy in the state or condition in which that nature is when it reaches its final end, conc. maj.; in any state or condition whatever, neg. maj. Dist. min. God cannot make the lower or sensuous nature of man directly happy or blessed, conc. min.; indirectly, sd.: if the body is no longer united to the soul, conc. min.; otherwise, neg. min.

Inst. But the soul of man cannot be perfectly happy when it is separated from the body; for the soul of man is essentially the form of the body and designed for union with the body. Hence, if separated from the body it would be in an unnatural and violent state, and therefore it cannot be happy in such a state of separation.

Reply. Neg. min. subs. Dist. reason assigned. The soul is essentially the form of the body in the sense that it has essentially the aptitude to inform the body, conc.; in the sense that it essentially demands and requires to be actually united to the body, sd.: as long as it has not reached its full perfection as to intellect and will and still needs the body as its instrument, conc.; after it has once reached its full perfection, neg.

Inst. But the human soul is an incomplete substance. Therefore, apart from its complement, the body, it cannot be in its proper and suitable state.

Reply. Dist. antec.: The human soul is an incomplete substance, but intrinsically independent of the body in its characteristic operations of the intellect and will and consequently in its existence, conc. antec.; an incomplete substance intrinsically dependent on the body in its operation and existence, neg. antec. Dist. concl.: Apart from the body, it is not in its proper and suitable state, while it has not yet attained to perfect happiness, conc. concl.; otherwise, neg. concl.

The above difficulty can be stated as follows: Either the body will rise from the grave or it will not rise from the grave. But in either case God cannot make man happy. Therefore God is not the object which will constitute the final happiness of man.

The major is a complete disjunction. The minor is proved as follows: If the body rises from the grave God cannot make it happy because God is a spiritual being and a spiritual being is incapable of satisfying the appetites of a material being. If the body will not rise from the grave God cannot make man happy because the soul of man was made to go with the body and the soul apart from the body is in an unnatural and violent state and cannot be happy.

Answer: If the body rises from the grave God cannot make it happy directly but indirectly He can, because God as the Creator of matter and all its energies can cause matter to act on matter.

Moreover God can do what He now does through secondary causes.

Moreover it is not true that a spirit cannot act on matter. We know from experience that a spirit can act on a material body. How do I now move my body except by willing to move it. Thus we see that a spiritual faculty can cause the body to move. A good conscience or a soul free from sin has an effect on the body. Conscience will often cause the expression in a man's face to change. A victory at a game will often cause a crowd to cheer while a defeat will make a crowd glum. Thus a spiritual or immaterial judgment can act on a material body. We often talk about a man jumping for joy and the joy that causes him to jump will often be a spiritual joy.

As regards the other alternative—if the body will not rise from the grave—then we claim that the soul will be happy without the body and we argue as follows: The body of man may be compared to a ladder. We need a ladder until we reach the roof or our goal. Then we do not need it. So with the soul. It needs the body till it reaches its goal. Then it will not need the body and can be happy without it.

NOTE: Our faith tells us that the body will de facto rise again from the grave. But philosophy tells us nothing certain on this point.

THESIS VIII

As blessedness is attainable only in a future life, the ultimate intrinsic end of man relative to this life is such an exercise of volitional activity as will prepare and dispose him for his final state of perfection and happiness.

INTRODUCTION

Blessedness, the absolutely ultimate end of man, consists in man's final perfection and happiness and this, in turn, consists in the perfect knowledge and love of supreme truth and goodness, that is, God. All this we have proved. We have also, in a special way, called attention to the fact that this state of Blessedness, precisely because it is man's last natural end, for which the Creator has implanted in our nature an irresistible and indestructible desire, is possible of man's attainment. The question now arises as to the time when this possibility may be realized. This question is treated in the present thesis.

EXPOSITION

ONLY IN A FUTURE LIFE:

These words contain two propositions:

1) Blessedness cannot be attained in the present life.

2) Blessedness can be attained in a future life.

In connection with this second proposition, it is necessary to here state another of the POSTULATES of Ethics, drawn again from the Science of Psychology, namely, the IMMORTALITY OF THE SOUL OF MAN. This means that the individual soul or the spiritual principle in man, by which he is a rational and volitional being, will survive the dissolution of the body and continue endlessly to lead a life of activity, exercising its powers of knowing and loving.

RELATIVE TO THIS LIFE:

Our question, therefore, is, in this thesis, not of man's absolutely ultimate end, but of his relatively ultimate end.

SUCH AN EXERCISE: In this thesis we do not attempt to state or prove what kind of exercise of volitional activity will,

as a matter of fact, prepare and dispose man for the attainment of his final perfection. This will be done in theses following. Here we establish merely this: Whatever that kind of activity be which will thus dispose man, that it is which constitutes his last end in this life.

PROOFS

Part 1. BLESSEDNESS IS NOT ATTAINABLE IN THIS LIFE.

Blessedness is a state in which 1) all evil is absent; 2) and in which the tendency of the intellect for truth and of the will for good are fully satisfied.

But such a state is not attainable in this life.

Therefore Blessedness is not attainable in this life.

Major is a definition of Blessedness.

Minor: That all evil is not absent from this life is evident. Whatever the goods of this life are, they are limited both in amount and duration. Death ends all. No man can possess all.

The goods of this life are always mixed up with evils.

In this life the body is by its very nature subject to sickness and death. The tendency of the intellect for truth is not satisfied here because of the obscurity and insufficiency of our knowledge. The tendency of the will for good is not satisfied because of the insufficiency and insecurity of our possessions.

Therefore blessedness is not attainable in this life.

Part 2. BLESSEDNESS IS ATTAINABLE IN THE FUTURE LIFE.

Blessedness is either attainable here or hereafter.

But not here. *Therefore* hereafter.

Major: If not hereafter, then life is a mockery, a foolish and footless thing that leads us nowhere. And God is a deceiver, having placed within us a desire for perfect happiness and at the same time rendered it impossible to attain perfect happiness.

Therefore we must either admit a future life where blessedness is attainable or admit that God has mocked us.

Part 3. THE RELATIVELY ULTIMATE INTRINSIC

END OF THIS LIFE IS SUCH AN EXERCISE OF VOLITIONAL ACTIVITY AS WILL PREPARE AND DISPOSE MAN FOR HIS FINAL END OF PERFECTION AND HAPPINESS.

This life is either an end in itself subordinated to no higher end or it is an intermediate end subordinated to our last end or it has no meaning.

But to affirm that this life has no meaning or purpose is absurd because it is foolish for God to create us and put us in this life if it has no meaning or purpose.

Secondly this life is not an absolutely last end in itself subordinate to no higher end because if it were such it would satisfy man. It does not and it cannot. This is clear both from experience and from the nature of man's highest faculties which are objectively infinite and reach out to something infinite. Hence the finite goods of this life can never satisfy man and therefore cannot constitute his last end.

Therefore it only remains that this life is subordinate to the next life and is a means and like every other means is good in so far as it leads us to our last end and bad in so far as it impedes us in the attainment of our last end.

The right use therefore of this life must bring us to our last end.

What is the right use of this life?

Reason tells us that the right use of this life consists in doing good and avoiding evil and that such a line of conduct or such an exercise of our volitional activity will prepare and dispose us for this final state of perfection and happiness.

COROLLARY

In further declaration and confirmation of this last part of the thesis we add the following paragraphs:

Man's unitary nature postulates unity of final tendency and end. This unity of final tendency and end is impossible unless all other tendencies and ends are positively subordinated to some final tendency and end of his nature. Hence, the end and purpose of man's life on earth is related to his final end as proximate to ultimate end, that is, the relation of this life towards the life in the hereafter is that of a journey towards the terminus. The

ultimate end of man is, as we have seen, blessedness, or the final perfection and happiness of his rational nature. Consequently, the supreme end and purpose of this life can be nothing else but that it should serve as a means or preparation for final perfection and happiness in the hereafter. As the whole earthly existence of man is thus subordinated to, and a preparation for, final perfection and happiness, so, in turn, are all the particular ends and purposes of this life subordinated to the end of preparing for the state of perfection and happiness. Hence, the preparation for final perfection and happiness is the supreme end and purpose of this life.

The dignity and freedom of man, as well as the wisdom of God demand that this life should be a means and a preparation for the final state of perfection and happiness in the hereafter.

Proof of this statement

A.—Dignity and freedom of man.

The manner in which a being must reach its final end is determined by the nature of that being itself. Hence, while beings devoid of intelligence and free will are driven and impelled to the attainment of their final end and destiny by blind instinct or necessity—that is, in virtue of physically compelling tendencies implanted in them by the Author of their nature—man is capable both of knowing his end and of freely willing it. It is, therefore, in accord with and due to his nature, that he should move towards his end, not by physical necessity, but by deliberate choice and the free determination of his will. A free and deliberate self-direction of man to his final end, such as his nature demands, is not possible unless it is in his power to reach that end or fail to reach it. Were he to attain and reach his final end, whether he will it or no, he would obviously not be free in his striving after it, but would be compelled to reach that end independently of his natural freedom and will.

B.—Wisdom of God.

The wisdom of God, too, demands that He should not force final perfection and happiness, which consists in the possession of the supreme and highest good, upon man as if it were a thing of no value, but should give it the character of a reward, which is reserved for those only who freely exercise their powers in such

a way as to show themselves worthy of its attainment and possession.

SCHOLIA

I. Hence, final perfection and happiness is promised to man, not absolutely, but only conditionally, namely, on the condition that man, by the proper exercise of his free will, renders himself worthy of it. It is true that God, in so far as this depends on Him, wills all men to attain to final perfection and happiness; but at the same time He wills that all men should merit their state of blessedness by the right use of their freedom. Although, therefore, perfection and happiness are the ultimate, intrinsic end of man, it is not an absolute end, which is to be attained under all circumstances. The absolute end, to which all other ends, the perfection and happiness of man included, are subordinate, consists in the glorification of God by His creatures, especially man. This end every man is bound to attain, and will inevitably attain, whether he wills it or not. Thus the wicked will glorify the justice of God by suffering.

II. Hence, the present life derives its real meaning from its relation to, and its connection with, man's final perfection and happiness. Because the present short life of man is decisive of his eternal destiny of happiness or unhappiness, it is of such value and such serious importance. Hence, it is that we attach such importance to the last moments of man, and that the death of even a total stranger affects us so deeply. It is the thought, unconscious though it may be in many instances, that for that man the time of preparation is past; his eternal fate, his happiness or misery is irrevocably decided.

III. Since the true value of the things of this earth is to be determined by their relation to the final end of man, i.e., final perfection and happiness, it follows that among all goods those of the will are the highest and most valuable, because they alone lead to the state of final blessedness. All other goods, therefore, such as prosperity, health, honor, fame, power, etc., are of value and importance only in so far as they help us to attain our final end, that is, all these must be subordinated to the highest and final end of man.

III. THE GOOD

THESIS IX

Man's supreme good is the attainment of blessedness.

EXPOSITION

Good is that which satisfies appetence or desire.

N.B.—Such is a definition which expresses the meaning universally attached to this term. By analyzing the same, we will arrive at a more accurate concept of the intrinsic nature of "Goodness."

The power to satisfy appetence involves a relation. The terms of this relation are the faculty seeking satisfaction (appetitive faculty) and the object capable of affording satisfaction.

This relation exists only because there is—

a) on the part of the faculty a need or a want;

b) on the part of the object, which is said to be a good, a fitness to meet this need or appease this want.

N.B.—Want is a broader term than NEED. What is needed is always wanted in the strict sense of the word; what is wanted is not always needed.

This FITNESS is, therefore, properly said to constitute the GOODNESS of an object, and as it is something intrinsic to the object, goodness is an intrinsic attribute of the object. Further, an object is good, not because it is likeable or desirable, but vice versa.

GOODNESS, therefore, may be defined as "Fitness" or "Suitability" or "Convenience." (Cf. Latin *"convenientia"* from *con* or *cum* plus *venire*—"to come or go together," i.e., to fit in with, to be suitable to). And in the same way—

GOOD may now be more scientifically defined, according to its nature rather than, as in above definition, according to one of the consequences of that nature, as "that which is fitting or suitable."

SUPREME GOOD, therefore, is that which is in the highest

degree fitting or suitable; that which, when present, affords everything suitable, everything, therefore, for which there can be in the being an appetite or desire, and so satisfies completely all appetence or desire.

DIVISIONS OF GOOD

A.—PERFECTIVE GOOD is that which is fitting to supply an absent perfection, either needed or wanted, or to remove a present imperfection.

DELECTABLE GOOD is that which is fitting to relieve the dissatisfaction felt at the absence of a perfection or the presence of an imperfection.

N.B.—The relations between these two kinds of good will be more clearly seen if we consider the following:

Concomitant with and arising from the absence of a desired perfection or the presence of an undesired imperfection in a conscious being, there is a consciousness of dissatisfaction ranging from mere discontent to pain. This dissatisfaction is itself discordant to the nature affected by it, and this nature, conscious of this dissatisfaction, seeks relief from it, and this relief of dissatisfaction is a thing which, when had, satisfies appetence and so is a good, according to the definition given above, and a delectable good. But this satisfaction is afforded (delectable good attained) through the presence of the perfective good which meets a more fundamental need or want of the nature.

USEFUL GOOD is that which is fitting to help as a means to the attainment of perfective good or delectable good.

N.B.—USEFUL good is, therefore, a good whose desirability is grounded on something altogether extrinsic to itself, namely, on that, to the attainment of which it is useful. Outside of this usefulness, it is not at all desirable, because, outside of its fitness as a means, it has no fitness or suitability.

B.—REAL GOOD is perfective good that befits or is suitable to the unitary nature as such of a being (e.g., man) or to some faculty in due subordination to the unitary nature as such.

APPARENT GOOD is perfective good that befits or is suitable to a faculty out of due subordination to the unitary nature as such.

PROOF

The supreme good of any nature is that which constitutes the greatest perfection of which that nature is capable.

But the attainment of Blessedness constitutes the greatest perfection of which man's nature is capable. *Therefore.*

Major: clear from the definitions and explanations already given of the ideas of "good," "nature" and "perfection."

Minor: also clear from Thesis 6. Confirmed as follows: Good of man is that which is fitting and desirable for man and must be found in the exercise of an activity. Supreme good is that which is so fitting that it fills every want and meets every need, and so desirable that it is always desirable in itself for its own sake and never as a means to anything else, and must be found in the activity of man's intellectual and volitional life.

Therefore this supreme good is the attainment of Blessedness, since all this corresponds exactly with what we have established in Thesis 6 regarding Blessedness as man's last end.

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THE TRUE NORM OF MORALITY

THESIS X

The proximate norm of morality in man's volitional activity is rational nature looked at completely and in all its essential relations; the ultimate norm is the divine nature.

INTRODUCTION

We have seen that man's supreme good consists in the attainment of his ultimate end. This end, therefore, constitutes the supremely fitting or suitable thing for man; and the volitional actions of his present life—by which, according to Thesis 8, he is to prepare and dispose himself to reach his absolutely last end—will evidently be such as to accomplish this only when they are also in their own degree fitting or suitable, in other words, only when they are good. Hence, the importance of determining which volitional actions are good, which are not, and what constitutes them either good or not good. The present thesis aims at determining these two things.

EXPOSITION

MORALITY signifies the quality of goodness or badness in man's actions. The norm of such goodness or badness is called the norm of morality.

NORM: a standard or measure.

NORM OF GOODNESS is, therefore, a standard or measure of goodness. Since goodness is in concept a relative thing, in this sense that it involves a reference to the thing to which or for which or in relation to which it is said to be goodness, it necessarily presupposes some measure or standard by which it can be shown to be goodness (that is fitness or suitability) rather than the opposite —badness (unfitness or unsuitability).

ACTIVITY: Goodness or badness in action can mean nothing else than the fitness or unfitness of the action to the thing acting, that is, to the nature of the agent, for it is this nature which is the primary principle by which the actions are produced and the subject immediately modified by these actions.

It is, therefore, evident on a mere analysis of these ideas that

the standard or measure—the norm—of goodness or badness of any and all actions can be nothing else than the nature of the agent which produces them.

The agent we are dealing with here is man and therefore there is question of the goodness or badness of man's actions, and so again the norm of such goodness and badness can be nothing else than man's nature.

Why, then, the need of any further explanation or proof? The need lies precisely in this, that man's nature is a very complex thing, and in order to make this norm, by relation to which his acts are constituted good or bad, a thing of practical value to man in judging of his particular acts and their power of leading him to his last end, it is necessary to state more explicitly, exactly what is implied in the expression "man's nature." This is what the present thesis does by stating and proving (merely by analysis of the idea of goodness and of the idea of man's nature) that the proximate norm is rational nature looked at in itself and in all the relations which are essential to it.

PROXIMATE NORM, as distinguished from ultimate, is the standard or measure nearest to the action in question, the standard or measure in immediate relation to which the action is constituted good or bad.

ULTIMATE NORM is, therefore, that on which ultimately the proximate standard or measure depends, or that which is the reason why the proximate standard is just what it is. It is, therefore, the ultimate or original measure of all that is measured by the proximate norm.

NATURE is the substance of a thing considered precisely in so far as it is the source or principle of the powers of action of that thing. (Cf. Thesis 6, the N.B. under definition of Blessedness).

RATIONAL NATURE is that nature whose specifically characteristic perfection or activity is rationality, though it may have other and less perfect kinds of activity also, which are so adjusted and subordinated to this rational activity as to preserve the being's natural unity.

LOOKED AT COMPLETELY—

It is important to note that this phrase is not to be understood to

imply that man's reason or his higher nature, considered in and by itself alone, i.e., apart from and to the exclusion of his lower or animal nature, is the norm or standard, by relation to which man's conduct is constituted good or bad. If this were the case, it would follow that all actions, if there be any such, which are fitted to promote the bodily welfare of man and at the same time have no direct influence on his rational life, would have to be regarded as bad or at least indifferent, and this is manifestly false. What is meant by this phrase is that the norm is man's nature as it actually is in itself, with all its constituent parts rational, sentient and vegetative, and with the order and arrangement which, by nature's plan and action, objectively exists between these same parts. This order is, as a matter of fact an order of subordination of the sentient and vegetative nature of man to his rational nature, but this is far from saying that the subordinated nature is not to be considered in determining the fitness (goodness) of actions. The truth is evidently this, that actions suited and fitted to the lower powers of man's composite nature are really good, provided they promote, at least indirectly, the well-being of his higher nature; on the other hand, actions which in themselves are fitting to man's higher nature as such may be nevertheless really bad. The latter is the case whenever such actions fail to take into account the reasonable demands of the lower nature and are, in consequence, unsuited and injurious to man considered adequately and completely, in other words, unsuited to man's nature "looked at in itself."

ESSENTIAL RELATIONS, i.e., looked at just as it objectively exists in whatever relationships it is, by its very essence, involved with reference to other beings. That man is thus involved and is not an isolated and solitary being is evident from the following considerations:

As a CONTINGENT nature, owing origin and continued existence to the Creator and the meaning and value of this existence to the Creator's design, man has the essential relationship of DEPENDENCE UPON GOD. Hence—to apply what we state in this thesis to be our norm—any action that is in harmony with this dependence is, so far as this essential relationship is concerned, fitting to man's nature and therefore good; any action opposed to it is necessarily unsuited to his nature and therefore bad.

As a SOCIAL nature, allied by innate impulse, needs and

destiny with other social beings, man has the essential relationship of EQUALITY WITH HIS FELLOW MAN. Hence—to apply again our norm—whatever makes the social life, which reason demands, possible, whatever strengthens it or contributes to its development and growth, is, so far as this essential relationship is concerned, fitting to man's nature and therefore good; on the other hand, whatever hinders or disturbs the social life, whatever tends to subvert society is for that very reason unsuited and unfitting to man's nature and therefore bad.

As a PROPRIETARY nature, intended by God to possess and exercise direct dominion over all other (i.e., irrational) created things, so that by the use of these things he may be assisted in the attainment of his own end, man has the essential relationship of STEWARDSHIP OF ALL IRRATIONAL CREATION. Hence—to apply our norm again—whenever man makes use of these creatures, in accordance with this intention of His Master (as a steward should), he is acting, so far as this essential relationship is concerned, in accordance with his nature and so performing a good action; whenever he uses them in any other way, his action is bad.

PROOFS

Part I. THE PROXIMATE NORM OF GOODNESS IN MAN'S VOLITIONAL ACTIVITY IS RATIONAL NATURE LOOKED AT IN ITSELF AND IN ALL ITS ESSENTIAL RELATIONS.

Note—We are not seeking a declarative norm such as right reason which tells us whether an action is good or bad but we want to know why reason declares certain actions good and certain actions bad. Reason does not make a thing good or bad because reason is not a creative faculty—it sees things it does not make things.

We want to know what really makes a thing good or bad—"the *norma constituens.*"

PROOF

If the proximate reason why an action or an object is good is because it is suitable for the nature of a being and if the proximate reason why an action is bad is because it is unsuitable for the nature of a being, then the nature of a being determines the

goodness or badness of an action and is the proximate norm of morality. *But* the proximate and immediate reason why an action is good or bad is because it is suitable or unsuitable for a nature. Therefore the nature of a being is the proximate norm of morality.

Major: evident.

Minor: definition of good.

Note. It must be noted that man's nature is a complex nature composed of various vegetative, sensitive, and rational faculties co-ordinated and subordinated to form one specific nature known as human nature. Now any action that is suitable for one faculty in human nature and injurious to another, is not suitable for human nature as such or looked at completely. Thus study perfects man's intellectual nature but if indulged in to excess injures man's eyesight and disorders his digestive faculties and cannot be said to be suitable for rational nature as such.

Again human nature is a contingent nature, was created by God and owes God reverence and obedience. Any action then that perfects human nature as an individual nature but violates some essential relation of man to God, cannot be said to perfect human nature adequately.

Again human nature is a social nature, i.e., man is destined to live in society and has certain essential relations to other men and to society.

Again human nature is a domestic nature and there exist essential relations between children and parents.

Again rational nature is a proprietary nature and has certain essential relations to other non-rational beings such as animals and inanimate things.

Thus an action to be suitable to rational nature adequately taken must not be injurious to that nature under any of these aspects. If an action promotes man's nature as a social being but disorders his nature as a creature of God it is not good. Thus the killing of the aged and infirm and useless and insane might promote the good of society by relieving society of the burden of supporting the useless. But such actions would militate against

the rights of God Who alone has dominion over life and death. Thus birth control and sterilization of the defective, etc., might promote man's welfare under one aspect but under another aspect such actions would violate God's right and God's designs.

Part II. THE ULTIMATE NORM IS THE DIVINE NATURE.

The ultimate norm of goodness is that which is the final objective basis and reason of rational nature, in so far as this latter is the proximate norm.

But the final objective basis and reason of rational nature is the Divine Nature. *Therefore.*

Major: a definition and description of ultimate norm.

Minor: For God is the efficient and archetypal cause of man's nature; the Author of all activities, tendencies and faculties, with which man is endowed. God is, therefore, the ultimate reason why man tends to certain objects and ends, and why man, in tending to certain ends and objects, acts in conformity with his nature, and why, in tending to certain other ends and objects, he acts contrary to his nature. And being the ultimate reason why certain actions are fitting and suited to man as a rational being and why certain other actions are unsuited and unbefitting to man, God is the absolutely ultimate norm of what is good or bad. Moreover, since God is the efficient and archetypal cause not only of man, but of all possible rational beings, He is the ultimate norm of goodness for all rational beings, that is, he is the absolutely ultimate and universal norm of all goodness. Just as the essence of God is, therefore, the primal source and the norm of all being, so is It the primal source and the norm of all goodness.

DIFFICULTIES

Obj. 1. If the rational nature of man is the proximate norm of goodness, the actions which are conformable to his lower or sensuous nature, such as eating, sleeping, etc., cannot be really good. *But* this is evidently false. *Therefore,* the rational nature of man is not the proximate norm of goodness.

Reply. Dist. maj.: If the rational nature of man, considered

incompletely and inadequately, were the proximate norm, those actions would not be really good, conc. maj.; if the rational nature of man, adequately and completely considered, is the proximate norm, those actions would not be really good, sd.: when done in a proper manner, neg. maj.: when done in an improper manner, conc. maj. Contrad. min. Neg. concl.

Obj. 2. Actions which are injurious to the human race are bad. *But* this supposes that utility is the norm of goodness. *Therefore,* the rational nature of man is not the norm of goodness.

Reply. Conc. maj. Dist. min.: This implies that utility is the norm constitutive of goodness, neg. min.; is a norm declarative of goodness, conc. min. Dist. concl. in same way.

It is true that if an action affects the race prejudicially, it is bad. But the act is bad, not because it works evil effects on the race, but because it is unnatural, i.e., opposed to rational human nature as a social nature, and, hence, leads away from the ultimate end. For man is by nature a social being and therefore an action which is prejudicial to the race cannot be in conformity with man's nature, but is necessarily bad.

Utility is a norm which manifests an action as bad, but it is not a constituent norm which makes an action bad. Poison food is not bad because it is painful or injurious, but it is painful and injurious because it is bad. Because it disagrees with my stomach, because it is unsuitable for my nature. The injury or pain is an effect of the evil, not the cause of the evil.

Likewise, a man is not sick because the doctor's thermometer goes up, but the doctor's thermometer goes up because the man is sick. The man was sick before the thermometer was put into his mouth. The high temperature registered is only a norm manifesting the fever. It does not cause the fever.

So, too, an action is injurious because it is bad; it is not bad because it is injurious.

Obj. 3. Those actions are good which men in general regard as good, those actions are evil which men in general regard as evil. *But* this implies that the common convictions of men are the norm of goodness. *Therefore,* rational human nature is not the proximate norm of goodness.

Reply. Dist. maj.: Those actions are good because they are

regarded as good by man in general, neg. maj.; they are regarded as good by men in general because they are good in themselves, i.e., in themselves suited and fitting to man as a rational being, conc. maj. Dist. min. They are the intrinsic and constitutive norm of goodness, neg. min.; they are an extrinsic and declarative norm of goodness, con. min.

Obj. 4. Actions are good or bad according as they are approved or disapproved by our "Moral Feelings." *Therefore,* our "Moral Feelings" are the norm of goodness.

Reply. Dist. antec.: They are good or bad because they are approved or disapproved of by our "Moral Feelings," as in themselves good or bad, sd.; if these feelings are guided by reason, conc. antec.; otherwise, trans. antec. Dist. concl. They are the intrinsic norm, neg. concl.; they are an extrinsic norm, sd.; if guided by Reason, conc. concl.; if not guided by Reason, neg. concl.

Obj. 5. What is conducive to the general well-being of the race is good; what is derogatory to the general well-being of the race is evil. *But* this proves that the general well-being of the race is the norm of goodness. *Therefore,* man's rational nature as such is not the proximate norm of goodness.

Reply. Dist. maj.: What is conducive or derogatory to the general well-being of the race is good or bad, because conducive or derogatory to the well-being of the race, neg. maj.; is good or bad because suitable or unsuitable to man as a social being, conc. maj. Dist., min. The general well-being of the race is the intrinsic norm of goodness, neg. min.; is a norm declarative of good and evil, conc. min.

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FALSE NORMS OF MORALITY

THESIS XI

Utilitarianism, Sentimentalism and Moral Rationalism must be rejected as explanations of the nature and norm of morality.

INTRODUCTION

In the previous thesis we established just what it is that makes a man's conduct or volitional activity really good or bad, namely, harmony or discord, proximately with rational nature looked at in itself and all its essential relationships, ultimately with the Divine Nature. But as has been mentioned in Thesis 2, volitional actions are also called and properly called Moral actions. Therefore, we may properly speak of the real good and bad in man's conduct as moral good and bad, and we may further call the norm of that goodness and badness the norm of moral goodness and badness. Or more briefly we may, as all authors do, use the term "MORALITY" to designate in general the quality of goodness or badness in man's actions and so call the norm of such goodness or badness *the norm of morality.*

For "moral" in the expression, "moral good," merely adds to the expression "real good," a relation to the norm of volitional activity, a relation which it is evident can be had only in the case of man, since only man has volitional activity. MATERIALLY, then, volitional acts and moral acts are the same thing, but FORMALLY, i.e., according to the precise element or feature emphasized by these different names, they differ in this:

1) The act is said to be volitional inasmuch as it involves such intellectual knowledge as gives grounds for deliberation and freedom of choice;

2) The same act is said to be moral inasmuch as it involves the particular knowledge of its own harmony or discord with the norm of goodness.

Now the real significance and importance of the conclusion established in Thesis 10 is made clear if we compare it with the conclusion established in Thesis 8. In the latter we proved that man's relatively last end (last end of his activity in this present

life) was such an exercise of volitional activity as will prepare and dispose him for his final state of perfection and happiness (his absolutely last end), but we did not attempt there to discover what kind of activity was such. Theses 9 and 10 make it clear that such activity can be only that activity which is in harmony with rational nature or, as we may now say, morally good activity. For only morally good actions, from their very concept as explained in these theses, can perfect man and only by being perfected can man attain to his supreme perfection or good which we have seen to consist in reality in the attainment of his absolutely last end. Therefore, only by morally good actions can man attain to his absolutely last end and so the exercise of morally good and the avoidance of morally bad actions constitute the relatively last end of man, his purpose in this present life.

From all this it should be evident that the subject of MORALITY is of the highest importance. For this reason, as well as because there are so many different and such radically false views on the nature of morality and the standard or norm of morality, the present thesis will explain briefly and indicate the errors of the main classes of opinions on the subject. To one or other or some combination of these false opinions, all erroneous views on the subject of morality may be reduced.

EXPOSITION*

I. UTILITARIANISM OR HEDONISM.

This is the system of those who hold that the essence of morality consists in the utility of human actions for attaining the temporal welfare or happiness of man; so that actions are to be regarded as morally good or morally bad, according as they do or do not contribute towards the attainment of this temporal well-being or happiness.

"The principle which is common to all the forms of Utilitarianism may be formulated as follows: *Utility is the true standard of morality; if you wish to know whether an action is good or bad morally, find out whether it is useful or not. If useful, it is good; if hurtful, it is bad. Virtue, no doubt is an excellent thing in its way; but it is excellent because it gives the greatest amount and the highest order of pleasure.* Here is the whole system, stripped of its accessories and of its sentimental dress. For the thorough-going utilitarian there is no difference between utility and morality —they are convertible terms." Holaind, *Natural Law and Legal Practice*, p. 118.

*In the exposition and refutation of the systems enumerated, the material has been drawn almost entirely from the works of Cronin, Hickey, Cathrein, and Ming, synopsized and arranged by Fr. Frederick Meyer, S.J.

Utilitarianism assumes different forms according to the different ways in which its adherents interpret utility as the test and criterion of morality. Its principal forms are the following:

1) *Individual Utilitarianism or Egoistic Hedonism.*—This theory teaches that the end of each man and that which each ought to seek is his own greatest personal pleasure; and that consequently those actions are to be regarded as right and good which promote or increase that personal pleasure of each, and those actions are wrong and bad which tend to produce the reverse of that pleasure. If an action brings both pleasure and pain, it is good or bad according as the one or the other predominates. Since "pleasure" or "happiness" has many meanings, Egoistic Hedonism may range in its varieties of signification from the happiness or pleasure which results from the gratification of man's animal instincts to the happiness which the soul enjoys in contemplating its Creator. Thus we have the Hedonism of Hobbes, according to whom "whatever is the object of any man's desire that it is which he for his part calleth good;" the Hedonism of Aristippus and of the Cyrenaic School which gave the preference to mental pleasure; the Hedonism of Butler, which includes in its enumeration of pleasures those which we are to receive in heaven as a reward of good actions.

2) *Social Utilitarianism, Universalistic Hedonism or Altruism.*—This is the system of those who maintain that the ultimate end of the individual and what each ought to seek is the happiness of mankind at large, or of society—that what we ought to aim at in our actions is the well-being of others. Consequently, actions are right and good or wrong and bad morally, according as they promote or hinder the happiness or well-being of human society; and in proportion as an action is conducive or injurious to the common good of society, in the same proportion is that action better or worse morally. The theories of Universalistic Hedonism are, like those of Egoistic Hedonism, many and of great diversity—for instance, Bentham's and Mill's theory that the act is good which gives the greatest possible amount of pleasure to the greatest number of sentient beings; Cumberland's theory that the pleasure of human society is the only end; Comte's and Fichte's theory of pure Altruism that the end of the individual is the happiness of all other men exclusive of his own, regard to one's self-being considered in this system, if not bad, at least

unmoral; the modified form of altruism advocated by Shaftesbury that "the natural predominance of benevolence is good and the subjection of selfishness is virtue."

3) Herbert Spencer's (1820-1903) Teaching.—Spencer applies his materialistic theory of evolution to Ethics, tries to reconcile Egoistic and Universalistic Hedonism. John S. Mackenzie gives the drift of Spencer's doctrine on this subject: "Mr. Spencer begins by trying to determine what we mean by conduct, and what we mean by calling conduct good or bad. He examines this question by going back to the life of the lower animals. In all life there is what may be called conduct, and in all life it may be good or bad. Now the essence of life, as seen in its lowest forms, consists, according to Mr. Spencer, in 'the continuous adjustment of internal relations to external relations, i.e., the constant effort of an organism to adapt itself to its environment. All conduct tends either to promote or to hinder such adaptation. In so far as it tends to promote it, it is good; in so far as it tends to hinder it, it is bad. Good conduct produces pleasure, because it brings the organism into harmony with its surroundings. Bad conduct produces pain. Nearly all conduct is partly good and partly bad. Perfectly good conduct would be that which produces only pleasure with no accompanying pain. But conduct is relatively good when it tends on the whole to produce a surplus of pleasure over pain, i.e., when it tends on the whole to produce a more perfect adjustment of organism to environment. The supreme moral end is to help on the process of development, which consists in a more and more perfect adjustment of internal relations to external relations." *Manual of Ethics,* p. 238.

According to Spencer's system, therefore, those actions are simply or perfectly good which increase and further life, or, what comes to the same, which bring pleasure without any admixture of pain. Perfect happiness, pure pleasure with no accompanying pain, the greatest possible happiness of each and all, coincides with perfect morality, that is, the highest evolved conduct of the highest evolved being. Such perfectly good conduct, however, conduct which produces only pleasure with no admixture of pain, is impossible at present. Man has arrived at but a comparatively low stage of development; he is only very imperfectly and incompletely adapted to the social state. By reason of this very incomplete adaptation and adjustment to environments, there arise

many unavoidable conflicts and collisions between man's self-regarding and his other-regarding impulses, between his egoistic and his altruistic instincts, between the good of the self and the good of society. In consequence of this "there are necessitated successive compromises between the moral code which asserts the claims of society versus those of the individual, and the moral code which asserts the claims of the individual versus those of society." Hence, at present, perfectly good conduct is impossible. At its best the good can, at present, be only "the least wrong."

But according to Spencer, man will not forever remain on this low level of Egoism. The present is merely a transitional stage in the development of the human race. As this process of development advances, differences between the claims and interests of the individual and the claims and interests of society will be more and more perfectly adjusted; individual men will more and more perfectly adapt themselves to their environments, that is, they will find greater and greater pleasure in serving society and in promoting the general welfare; undue egoistic impulses and desires will be more and more completely restrained; and finally, recognizing that the general claims and interests of society must be placed above all the claims and interests of the self, men will find their greatest and, indeed, their only pleasure and happiness in the promotion of the common happiness and welfare of the race and the striving after the common happiness and welfare will be the mainspring of all their actions. Adaptation thus having reached its highest degree, pain will be reduced to its minimum, and every action will yield the purest pleasure. This degree of adjustment is to be attained by the development of the passion of sympathy. For development of sympathy must tend to make conduct altruistic. But sympathy is twofold—sympathy with joy and sympathy with sorrow. Sympathy with sorrow pains, and therefore impairs life; sympathy with joy pleases, and therefore increases and furthers life. Hence, it is only when all sorrow shall have ceased that sympathy will have reached its full efficiency as a world-force. Then we shall have no difficulty in doing good to others.

"This is the normal state of mankind, in which all is perfect, and every perfection assumes an ideal form, the climax of evolution and of morality, the paradise of happiness, the fullness of the purest pleasures, in which, as in his ultimate end, man shall find his final rest. It is a happiness, however, which, though enjoyed by all, is essentially personal. For, arising as it does from individual adjustments, it is directly the gratification of

everyone's individual desires and inclinations. Yet co-operation is, therefore, not excluded, but is, on the contrary, required, both to reach the necessary adjustment and to enjoy beatific bliss. For the requisite adjustment can be attained only in social life, and perfect bliss results, to a greater extent, from the pleasures of all shared by each through disinterested sympathy. In short, general happiness refers to a special happiness as a means to an end. Such is the new heaven promised by Herbert Spencer, to be enjoyed not in an uncertain life to come, but on earth, in the natural course of things and according to the laws of the visible universe."—Ming, *The Data of Modern Ethics Examined,* p. 50.

4) Schopenhauer's (the father of Modern Pessimism) teaching may also be classified with that of the Utilitarians. According to his theory, positive pleasure or happiness is impossible. The only happiness possible to man is absence from misery and pain. Hence, for him those actions only are right and good which proceed from the feeling of compassion, and which, being done without any selfish motive, tend to promote the common good or to alleviate the miseries and sufferings of others.

II. SENTIMENTALISM OR MORAL SENSISM.

According to this system, there is in man a special faculty, distinct from intellect or reason, for the perception of good or evil—a special moral sense which intuitively distinguishes right from wrong in about the same way that the sense of taste distinguishes bitter from sweet, and the sense of vision, blue from red. This moral sense is a kind of natural instinct which reveals what is good and what is bad. Hence, in the opinion of the adherents of Moral Sensism, those actions are right and good which agree with and are pleasing to moral sense; those actions are wrong and evil which disagree with and are displeasing to moral sense. Thus Shaftesbury, Hume, and especially philosophers of the Scottish school, Reid and others.

According to the German philosopher, Jacobi, man is endowed with a certain feeling by which he distinguishes between good and bad. Adam Smith proposes the feeling of sympathy as the criterion of morality. By sympathy is meant the tendency to share the feelings with others, to suffer when they are afflicted, and to rejoice when they are joyful. In his opinion, therefore, those actions are morally good which produce in others a certain sympathy or fellow-feeling; those actions are morally bad which excite antipathy in others. "To approve or condemn the actions of others is simply to recognize that we are, or are not, in sympathy with them, and that we also should feel right or wrong if we per-

formed the same actions The sentiment of obligation is simply the fear of exciting antipathy in others. Hence, one must endeavor to have the sympathy of the greatest number of men. As those who judge the value of actions may be more or less depraved and prejudiced, and as the danger of prejudice is greatest when a man passes a judgment on the value of his own actions, an appeal must be made to an onlooker, disinterested and impartial. It is his sympathy which man must try to deserve." Hence this principle or maxim: "Always act in such a way that the disinterested and impartial onlooker can sympathize with you."

I. F. Hebart assumes a certain moral taste as the standard and norm of morality, and regards Ethics as a part of Esthetics.

III. KANT'S MORAL RATIONALISM.

According to Kant "there is nothing simply good but the good-will" because the good-will alone has an absolute value independently of the success or failure of our actions. That will alone is good which does what the law commands and does it solely out of pure respect for the moral law itself, and disregards all other ends and results, i.e., he alone acts morally who observes the law from the pure sense of duty, or out of reverence for the law. Whoever observes the law from any other motive aside from the pure sense of duty, acts indeed legally, but not morally. In the opinion of Kant, therefore, to act morally it is not sufficient that the will conform to law; it is, moreover, required that reverence and respect for law, the sense of duty, be the sole motive which induces the will to act in conformity with the law. For true morality demands harmony or agreement between the law, which we observe, and our maxim, i.e., the motive from which, or the subjective principle on which, we conform to the law. Moreover, since the moral law is universal and equally valid for all men without exception, the maxim or principle on which we act, is good only when it can take the form of a universal law, or, as Kant himself puts it, "When we can at the same time will that our maxim (or principle) should become a universal law for all men;" so that the principles on which we act must be principles that we can adopt throughout the whole of our lives, and that we can apply to the lives of others.

Kant illustrates the application of his formula by taking such a case as breaking promises. It is wrong to break a promise, be-

cause the breach of a promise is a kind of action which could not be universalized. If it were a universal rule that everyone were to break his promises, whenever he felt inclined, no one would place any reliance on promises. Promises, in fact, would cease to be made. And of course, if they were not made, they could not be broken. Hence, it would be impossible for everyone to break his promise. And since it is impossible for everyone, it must be wrong for any one. The essence of wrong-doing consists in making an exception. Similarly, it may easily be shown that we could not, without a certain absurdity, have a universal suicide, or universal stealing, or even universal indifference to the misfortunes of others. Since, then, we cannot really will that such acts should be done by everyone, we have no right to will that we ourselves should do them. In fact, the moral law is —"Act only in such a way as you could will that everyone else should act under the same general conditions."—Mackenzie, *Manual of Ethics,* p. 191.

Since the "good-will" as such, i.e., the will to act in conformity with, and from the pure sense of duty, is the only real moral good, the matter or the object of the will in no way contributes towards the morality of an act. For this reason the norm of morality is, in the opinion of Kant, in no way concerned with the matter or object of the will's act, but solely with the form, i.e., with the motive or principle of willing.

It follows, therefore, that when we act for some external end, i.e., for the sake of some good which experience makes known to us, we do not act morally; we act morally then only when we are induced to action by pure reverence for the moral law; so that in complying with the law out of mere respect for its authority, the very essence of morality consists. Obedience to law from any other motive whatever, or from the desire of any good to be obtained, Kant would not regard as moral. Even happiness as the supreme good, and virtue as the necessary condition of the latter, ought not to be aspired to for their own sakes, but only because reason by its laws commands us to create them.

It follows, furthermore, that autonomy is essential to morality, i.e., the will can act from the pure sense of duty only when it is not subject to any extrinsic law, to any law outside itself, but is a law to itself. Practical Reason, therefore, which Kant identifies with the Rational Will, is autonomous, i.e., has its laws en-

tirely within itself, is an end unto itself, originates or creates the moral law to which, in the traditional Ethics, it was supposed to be merely subject. This theory of Kant, that practical reason or will creates its own law, is a law and an end unto itself, is known as the Autonomy of Reason. The theory that man receives the moral law from another or from anything outside himself Kant calls the theory of "heteronomy." This latter theory, he declares, is the source of all spurious Ethics, as the theory of Autonomy is the source of all pure and genuine Ethics. The universal and absolute form in which the autonomous Reason sets forth the law it has itself originated, is called by Kant the categorical imperative, in order to distinguish it from hypothetical imperatives, which command only conditionally, e.g., "if you do not wish to go begging in old age, you must labor in youth."

PROOFS

Part I. UTILITARIANISM MUST BE REJECTED.

Utilitarianism, under whatever form it may be proposed, is based on the two assumptions:

1) that the final end of man consists in the attainment and possession of some finite good, and

2) that human actions are good or bad morally, according as they contribute towards the attainment and possession of that finite good.

But these assumptions are false. *Therefore.*

Minor: 1) proved in Theses 6 and 7.

2) Follows as necessary consequence of 1) proved.

Confirmation of Minor:

a) Consciousness testifies that not every action which is conducive to the welfare either of the individual or of the race is for that very reason morally good, and that not every action which is opposed to individual or to common welfare is by that very fact morally bad:

b) The common consent of mankind, too, testifies that neither the welfare of the self nor that of society can be the test or standard of morality; for there are many actions which, though they are beneficial to the temporal progress and welfare either of the self or of society, are in the opinion of all morally bad and blame-

worthy, and on the other hand there are certain other actions which, although they in no way contribute towards either private or public well-being, nay, are even opposed to it, are nevertheless regarded by all as good and praiseworthy.

The killing of the aged or incurables (euthanasia) could be considered as conducive to the temporal welfare of the race and yet such actions are condemned as morally wrong by right reason and the common consent of mankind.

War is generally admitted as injurious to the temporal welfare of the race and yet it is not impossible to conceive a just war.

Celibacy practiced on a large scale would be injurious to the race and yet it cannot be condemned as wrong for the individual.

According to the Utilitarians suicide and lying would at times be justifiable because these acts often advance the temporal welfare of the individual and the race. Yet right reason and the common consent of mankind condemn these actions as morally wrong.

"When moralists assert that what we call virtue derives its reputation solely from its utility, and that the interest of the agent is the one motive to practice it, our first question is, naturally, how far this theory agrees with the feelings and with the language of mankind. But if tested by this criterion, there never was a doctrine more emphatically condemned than Utilitarianism. In all its stages and in all its assertions, it is in direct opposition to common sentiments. In all nations and in all ages, the ideas of interest and utility on the one hand, and virtue on the other, have been regarded by the multitude as perfectly distinct, and all languages recognize the distinction. The terms, honor, justice, rectitude or virtue, and their equivalent in every language, present to the mind ideas essentially and broadly different from the terms prudence, sagacity, or interest. The two lines of conduct may coincide, but they are never confused, and we have not the slightest difficulty in imagining them antagonistic." Lecky, European Morals, vol. I, p. 34.

Part II. MORAL SENSISM MUST BE REJECTED.

The special moral sense, that is, a special faculty in man, distinct from intellect or reason, for the perception of what is good and what is bad, whether it be called sense, feeling, sympathy or taste, is a pure fiction. There is no evidence to show that man is endowed with any such special faculty. But even if man did possess such a special faculty, a special moral sense for the perception of good and evil, it could not be the norm of morality; it would at most be a subjective norm by which to know and discern what is good and what is bad. The true norm of morality cannot be merely *subjective;* it must be objective, i.e., it must be

the *objective reason* why certain actions are morally good and why certain other actions are morally bad. Moreover, even if there were a special moral sense, it could not be the ultimate norm of morality. For the same action may be both agreeable and disagreeable from different points of view. In such a case how is the moral sense to decide which of the two feelings must prevail?

Thus a physician may have to choose between self-sacrifice in relieving the suffering of a man having a contagious disease, and the love of his own life and of his family. In such cases appeal must be made to some other norm and ideal. In other words, we may speak of moral taste or feeling, but a *rational explanation of it must be given.* It must be determined why certain actions are in conformity with, and others in opposition to, the moral sense. Thus it becomes possible to criticize the actions of others, and to refer them to certain rules which are not, like individual feelings, subject to endless variations. In fact, all admit that there is a depraved and a correct moral taste, and, therefore, refer it to some higher norm.

Part III. KANT'S MORAL RATIONALISM MUST BE REJECTED.

1) The whole Ethical system of Kant is based on an entirely false assumption. For the fundamental assumption in Kant's system is the principle that that will alone is morally good which obeys the law solely out of respect for its authority, i.e., which acts conformably to law from the pure sense of duty. In proof of this strange assertion, Kant appeals to common psychological experience. But is this principle really a common psychological experience? Do men really judge that the will performs a moral action only when moved and determined by the pure sense of duty? Do men really think that any other motive but the sense of duty destroys the morality of an action? This is surely not the case. For many actions are regarded by all as morally right and good, even though they do not proceed from the pure sense of duty. Thus the woman who is moved by her mother's love to attend to her sick child, the philanthropist who helps his fellow men out of sympathy and pity, the men and women who, though not in duty bound, devote themselves to the service of the sick—these and many others, in the opinion of all right-thinking men perform morally good and praiseworthy actions. So far, indeed,

are men from regarding the sense of duty as the only source of morality, that they are wont to attach the highest moral worth to heroic acts of charity, of patriotism, of benevolence, etc., precisely because they are performed without being enjoined by strict duty. It is clear, then, that in the opinion of men the sense of duty is not the only source of morality.

2) Kant's categorical imperative—"Act so that the maxim of the will may be capable of becoming a universal law"—is not the ultimate norm of good and evil in human conduct. For there are many morally good acts that could not possibly become a law for all. A healthy man has duties that could not bind a sick man. Our duties depend often on circumstances of person, time and place. For these Kant makes no allowance. Moreover, some courses that are morally good and lawful are good only as long as they *do not* become a universal law. It is lawful, for instance, for a man to remain a bachelor. But all could not do so.

3) Kant's theory of the Autonomy of Reason supposes that every distinction of good and evil in human conduct is *merely subjective.* For if human reason is the only norm of morality, and there is no ulterior norm by which to judge the morality of our actions, human conduct will be good or bad morally according as reason judges it to be good or bad; human reason will not judge actions to be good or bad because they are so in themselves. But this is obviously the same as saying that moral goodness and evil depend on human reason, and that the distinction between good and evil in human conduct is merely subjective; because if the distinction between good and evil is *objective,* there must likewise be an *objective norm* according to which reason judges.

4) Kant's Autonomy of Reason is contradicted by inner experience. Our consciousness testifies that reason is not a law unto itself, that it does not create and generate obligation, but simply points out to us the law and makes duty and obligation known to us. While reason *manifests* what is right and what is wrong, what is obligatory and what is optional, it does not make it so. It shows in what way we should act, but does not create an obligation. We have here something similar to what takes place in the knowledge of truth; Reason is not free to declare certain things true or false, but it must conform to evidence. It

perceives truths that exist independently of itself. In the same way, the moral good is not made, but only perceived, by reason. Hence, in neither case can reason be called autonomous, since it must conform to the nature of things.

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THESIS XII

There are actions which, independently of any will, either human or Divine, are intrinsically and of their very nature morally good or bad.

INTRODUCTION

It is universally admitted that all actions, which are known in their relation to the norm of morality, and as such freely and deliberately willed, have not the same moral value. All men make a distinction between morally good and morally bad actions and in so doing show that they are convinced that the moral character of all actions is not the same. There is uniformity of view, regarding the general ground for this distinction of moral actions into good and bad; all admit that this general ground is to be found in the relation of those actions to the norm of morality, i.e., that an action is morally good if it is in agreement with the norm of morality and that an action is morally bad if it does not agree with the norm of morality.

There is, however, a deep-rooted and far-reaching difference of opinion concerning the question, whether the distinction between good and bad actions is *fixed, permanent* and unchanging. The *meaning of this question is not,* whether *every* action, which at a certain definite time and under certain definite circumstances, is good or bad, is good or bad at all times and under all circumstances. For it is evident that an action which is good or bad solely because it is commanded or prohibited by some positive law, will cease to be morally good or bad as soon as it is no longer commanded or forbidden by positive law. But the *meaning of the question* is this: Are there any actions which, independently of any will or law, whether human or divine, are intrinsically, and of their very nature, morally good or bad; so that, even if these actions were not commanded or prohibited by any law whatever, it would nevertheless be morally good or bad to do or to omit them? In other words, is there a moral distinction between actions which is based upon the very nature of those actions, and which is therefore *prior* in *time to any positive law and prior in nature even to what we are going to call the natural law of God?*

Many philosophers will not admit that there is such a distinction between good and evil, which is intrinsic to things and inherent in the very nature of certain actions. They assign an *extrinsic* or *positive* reason for the distinction of good and evil and contend that the goodness or badness of an action in no case depends on the intrinsic nature of the action itself, but depends in every case on some positive law or custom. Because these philosophers ground all moral distinctions on something extrinsic to the action, on some positive command or custom, their theory is known as *Moral Positivism.*

Of Moral Positivists and their theories, the following are especially to be noted:*

1) According to *Hobbes,* the moral good is a mere relative notion, which varies according to passing and accidental desires; a universally valid and applicable norm, in his opinion, does not exist. In the so-called state of nature—that is, the state which is supposed by him and others to have preceded the formation of society—the good was that which any man desired. The real distinction of good and evil had its origin later on in the law of the State; according to Hobbes, therefore, that action is morally good which is commanded by the State; morally evil, on the other hand, is that which is forbidden by the State. Hence, what is morally good in one State can be morally evil in another, and *vice versa.*

2) *St. Lambert* holds an opinion similar to that of Hobbes, except that he substitutes public opinion for the law of the State. *B. Mandeville* maintains that moral distinctions are the inventions of certain influential men. And as the distinction of good and evil was first introduced by these causes, by the instrumentality of these same causes that distinction continually fluctuates and changes.

3) *Rousseau* reduces all distinctions of good and evil to the ordinances of the State—that is, the positive law—and the State itself he regards as a *positive* institution, a result of *positive* compact freely entered into by men.

4) *Carneades,* in ancient times, and *M. Levy Bruhl,* in modern, ground moral distinctions on human custom and practices.

*Adapted from Cronin, Science of Ethics, Vol. I.

Law, they maintain, follows practice, not practice law. Our ancestors did not first formulate the laws of human conduct and then obey these laws in practice. On the other hand, laws are an outgrowth of those practices which conditions of existence most favored in by-gone ages.

5) *Friedrich Nietzsche* contends that the distinction of good and evil in the moral sense was originally unknown. The laws that at present rule the world are the laws of the slaves who for a time have, with the aid of the priests, gained the mastery over the aristocrats. This is the law of pity, of mildness, of the equality of men. To this law must succeed, with the rise of another aristocracy, the law of hardship and of severest justice. But even the aristocracy must give way to another order—that of the *Uebermensch,* the Superman or the Philosopher, and to his law of individualism, of independence from all things except himself, "independence of Fatherland, of Pity, of Knowledge, of his own freedom, of virtue itself, of all except himself, and his sovereign individuality."

6) According to modern *Evolutionists,* the notions of good and evil are simply the gradual result of the evolution of man's social life. *Socialistic* philosophers hold a similar view and maintain that moral notions and distinctions are different in the different circumstances of time and in the different stages of man's development and evolution. *Paulsen* goes still further and holds that every condition of life and every country have their own proper morality, that the morality of the American is not that of the Chinaman, the morality of the artist not that of the merchant. Hence, what is good for one may be bad for another.

7) Finally, certain other philosophers—*Occam, Gerson, Descartes, Puffendorf*—teach that all moral distinctions depend exclusively on the will of God. The good they represent as that which God freely commanded us to do; the bad as that which He has freely forbidden us to do. Hence, in their opinion the free will of God is the sole reason why some actions are morally good, others morally evil.

EXPOSITION

In opposition to the different theories of the above mentioned philosophers, we hold that there is an essential and intrinsic distinction between good and bad, a distinction which is founded on,

and inherent in, the very nature of things, and which is in consequence unalterably the same for all men and for all times, which no circumstance of time or place or person can alter or even modify.

We grant, of course, that not everything that is now good or bad, is always and everywhere and under all circumstances good or bad. There are many actions which considered in themselves, i.e., in their abstract nature, are morally indifferent, i.e., neither morally good or morally bad, and these may become good or bad in consequence of some positive law, commanding or prohibiting them; these actions, therefore, depend for their moral quality on human or divine will.

But besides these morally indifferent actions there are many others which, independently of any and every will and law, independently even of the divine will and law, are intrinsically and of their very nature morally good or bad. *It must be noted, however,* that this is not the same as saying that independently of law there is an *obligation* to do that which is intrinsically and essentially good and to abstain from doing what is of its nature essentially and intrinsically evil. Obligation necessarily implies law and a law-giving will. Many actions are, moreover, morally good and praiseworthy and yet not at all obligatory, i.e., heroic acts of charity. Nor do we maintain that actions, which are intrinsically and of their very nature good, have their full moral value independently of the binding will of God, or that they are in themselves meritorious. We merely assert that there are some actions which, even if they were not commanded or prohibited, would nevertheless have some intrinsic goodness or badness, and it is, as we shall see, by reason of this inherent goodness or evil, that they are *necessarily* commanded or prohibited by God. Hence, they are commanded or prohibited because they are in themselves good or bad; they are not good or bad because they are commanded or prohibited. And even if we make the absurd supposition that God had never commanded or prohibited these actions, it would nevertheless be morally good for man to do those which are intrinsically good, and morally bad to do those which are in themselves bad.

PROOF

A—Man's actions are morally good in so far as they are suit-

able to his rational nature and thus lead and direct him to the attainment of his final end; they are morally bad in so far as they are unsuited to his rational nature and thus lead him away from his final end or hinder him in the attainment thereof.

But there are actions which, independently of any will, either human or divine, are intrinsically and of their very nature suitable to man's rational nature, and thus lead and direct him to the attainment of his final end; there are other actions which are of themselves and independently of any will, human or divine, unsuited to man's rational nature, and thus lead him away from his final end or hinder him in the attainment thereof. *Therefore.*

Major: Definition of morally good and bad actions proved in Thesis 10.

Minor: That some actions are of their very nature and independently of any will, human or divine, suited to man's rational nature and will thus lead him to the attainment of his final end, is beyond doubt. For who will deny that it is most suitable and proper for man as a rational being to worship the Deity, to reverence and love God, his Creator and final end, to practice filial piety, temperance, fortitude, etc. It is equally certain that other actions are of their very nature and independently of any will, unsuited to man's rational nature, and hence will lead him away from his final end or hinder him in the attainment thereof. Who will deny, for instance, that blasphemy, impiety, injustice, intemperance, etc., are in themselves opposed to man's rational nature? The same can be said of many other actions, especially those which have a beneficial or an injurious effect on man's social life. For man is by necessity of his nature a social being, and his social well-being depends on his peaceful and friendly intercourse with his fellow men. Hence, all actions which make the social life possible and ensure its permanence or are conducive to its stability, such as fidelity, honesty, charity, truthfulness, etc., are of their very nature suitable to man as a social being, and therefore morally good. On the other hand, all those actions which render the social life impossible, which are subversive of, or injurious to, social life, such as theft, homicide, treason, lying, deceit, etc., are of their very nature in opposition to man as a social being and for that very reason morally bad. It is clear, therefore, that many actions are in themselves conducive to man's well-being and therefore morally good for him, and that many other actions

are in themselves opposed to man's well-being and therefore morally evil.

B.—It is the uniform, universal and constant testimony of the whole human race that there is an essential and natural distinction of good and bad. All nations, whether civilized or uncivilized, whether ancient or modern, have made a distinction between what is good and what is bad, have held certain actions to be always and in all places and under all circumstances good, and certain other actions to be always and everywhere bad; have approved and commended the former and disapproved and blamed the latter. Even the pagan nations, though they were practically given up to vices in general, nevertheless, retained the names *good* and *bad* for certain actions.

"In the general moral course of human life there is nothing that comes out to view so strikingly as the distinction that exists between some actions as essentially good and others as essentially bad. This distinction is by its nature objective and intrinsic, universal and immutable. Being outside of the human faculties, it is not dependent on them or made by them, but springs from the very essence of things, and is the same everywhere and at all times. . . . The worship of the Deity, filial duty, justice, temperance, fortitude, prudence, have been held to be laudable in themselves by all men, and at all times, and in all places; whereas blasphemy, impiety, injustice, intemperance, etc., have been regarded as vicious always and everywhere. There is, therefore, between the morally good and the morally bad a fundamental distinction,—not changeable by any notion or efforts of men, and not suppressed by any viciousness or cruel legislation. It is the distinction that makes morals to be morals. Let it be capricious or changeable, and then what is essentially good today can be evil tomorrow; injustice in one will be justice in another; blasphemy now can be afterwards an act of virtue, and thus, the whole moral order being reversed, moral scepticism becomes a rule for human thought."—Ronayne, God Knowable and Known p. 263.

COROLLARIES

I. We condemn, therefore, "Extrinsic Morality," the theory that moral distinctions are wholly outside of acts, and spring exclusively from God's command; or that good and bad are good and bad simply in virtue of divine enactment. On the contrary, our thesis maintains that moral distinctions are intrinsic in things and inherent in their very nature.

II. We condemn also the theory known as "Independent Morality" or the theory that moral distinctions have no dependence on God. Goodness has a manifold dependence on God because—

a) without God there could be neither good nor evil, nor any acts;

b) because "the good" and "the natural" are one, and our natures are nothing more than a certain participation in the Divine Nature. Consequently, the good in creatures is founded on, and is a reflection of, the Divine Goodness. Hence, we cannot assert that morality is independent of God.

DIFFICULTIES

Obj. 1. There exists even among civilized nations the greatest diversity of opinion concerning the morality of actions. *Therefore,* there is no universal and unchangeable distinction between good and bad.

Reply. Dist. antec.: There exists such diversity of opinion concerning the extrinsic and accidental morality of certain actions, conc. antec.; concerning the intrinsic and essential morality of many actions, v.g., concerning the morality of truthfulness and lying, gratitude and ingratitude, honesty and dishonesty, worship and hatred of the Deity, etc., neg. antec. If there ever is in practical life diversity of opinion concerning intrinsic morality, this is due, not to any lack of knowledge, but to the influence of the passions.

All agree for instance that drunkenness is wrong but what exactly constitutes drunkenness and what exactly constitutes an intoxicating drink especially for different individuals, is a subject of disagreement.

All agree on fundamental notions of right and wrong and always have but men often disagree in making applications to concrete cases. Thus the Indians and certain tribes in putting their aged parents to death, did not thereby consider murder right, but by a perverse process of reasoning did not consider this case constituted murder.

"In the common language of mankind there are no words of more frequent occurrence than 'good' and 'bad'; 'right' and 'wrong'; 'this thing ought to be done'; 'you have no right to that object'; 'A behaved nobly'; 'B's conduct was disgraceful'. Such phrases as these are constantly in everybody's mouth, and whilst the application of them is one of the most abundant sources of disagreement, nobody fails to recognize and all are agreed upon the ideas conveyed. There are men to be found whose moral judgment is so unenlightened that they take as good conduct that which the verdict of mankind brands as wicked. This fact proves, not that such men are without the notion of right and wrong, but that they misapply it in their practical judgment of conduct. An enterprising Bedouin will rob, perhaps kill, a defenseless traveler without scruple, yet at the same time he will feel bound to respect the life and property of an enemy who has suc-

ceeded in putting himself under the aegis of hospitality. The standard which this man has of right and wrong is perverted; but a standard of some kind he evidently recognizes and applies. A thief will steal your purse without ceasing to believe that it rightly belongs to you, and that he ought not to deprive you of your own. This notion of the difference between right and wrong, giving rise to duty and obligation, lies at the root of all morality."—Fox, Catholic University Bulletin, v. 3, p. 295.

Obj. 2. If there were no divine law, there would be no sin. *Therefore,* the morality of a sinful act is derived from divine law.

Reply. Dist. antec.: There would be no sin in the theological sense, that is, no transgression of the divine law, conc. antec.; there would be no sin in the philosophical sense, that is, no act that is opposed and unsuited to the very nature of man, neg. antec.

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THESIS XIII

The specific determinants of moral good and evil in man's volitional activity are the end of the action, the end of the agent, and circumstances intrinsically affecting either.

INTRODUCTION

We have seen that the proximate norm of morality is rational nature as such. All human actions, therefore, which conform to this standard of moral rectitude are alike in their generic moral goodness, and all human actions which fail to conform to this norm of moral rectitude are alike in their generic moral evil. But neither all good acts conform in the same manner, nor all evil acts fail in the same manner to conform to this norm of morality. Hence it is, that there exist different species of good acts as well as of evil acts, according to the manner of their conformity or difformity with this norm and standard of morality.

"Good as well as evil differ in kind. Good actions are different in their special relations of conformity to the norm of morality, and endue the will with distinctive perfections; and inversely with evil actions."—Digests, p. 32.

Since good as well as evil acts differ in kind, the question presents itself, "To what causes does an action owe its *specific* morality? What determines the *specific* moral character of actions?" What is, if we may use the expression, the *specific* norm or standard of good and bad in human action. It is not, of course, a new norm, different from the standard which we established in the preceding thesis; it is a principle rather, or means by which we may know in what manner any individual human act conforms or does not conform to that standard of all moral good and evil in human acts.

EXPOSITION

DETERMINANTS: are factors or elements which determine or cause a thing to be what it is or to have some particular kind or grade or quality of being.

SPECIFIC: as distinguished from *generic,* are factors or elements which cause a thing to belong to a particular species of being.

Therefore, the thesis in seeking to answer the question—"What are the specific determinants of moral good and evil in man's volitional activity?"—is seeking to find out what are the factors or elements which cause (determinants) any and every free act of man (man's volitional activity) to have the quality by which it, the free act, is either fitting and proper (good) or unfitting and improper (evil) to man's nature, and fitting or unfitting not in a *generic* way, but in a *specific* way, i.e., a way peculiar to this particular kind or species of action (specific determinants).

Hence, whereas it is the relationship of conformity or non-conformity of an action with the norm of morality that gives to that action its generic goodness or evil, (according to Thesis 10), the purpose of the present thesis is to discover what are the precise elements in any and every volitional act that cause (determine) those acts to have—

1) a relationship of conformity or non-conformity with this norm, and

2) a relationship of this special (specific) kind of conformity or non-conformity.

In the thesis we say these elements are three, viz., END OF ACTION, END OF AGENT, CIRCUMSTANCES; in other words, we say that these three elements are the reasons why (causes, determinants) any volitional action is either morally good or morally bad and at the same time differs from any other kind of morally good or bad action.

END OF ACTION: (as in Thesis 6) is the result in which the volitional action terminates *of its nature,* or in which it *normally* issues. For every volitional action, whether elicit or imperate, normally issues in some end or result and this end or result is the END (or "Object,"—cf. N.B. below) of the ACTION. Thus, for instance, the divine honor, the relief of the poor, the taking of what belongs to another, are the ends of action in the case of adoration, of alms-giving, of theft.

This End of Action may be in conformity with the natural purpose of the faculty from which it proceeds, and therefore in conformity with the nature of man, either positively or negatively.

Positively, when it is so in accord with the nature of the agent that its alternative is out of accord with the same; such an action may be said to be intrinsically (of its nature) morally good.

Negatively, when neither the end of the action nor its alternative is out of accord with the nature of the agent; such an action may be said to be intrinsically (of its nature) morally indifferent.

This End of Action may be in difformity with the natural purpose of the faculty from which it proceeds, and therefore in difformity with the nature of man, and such an action is said to be *intrinsically* (of its nature) morally bad.

We may now mention that, when in Thesis 12 we proved that there are some volitional actions of their nature or intrinsically good or bad we really had in mind just those actions which are good or bad from their very END OF ACTION, i.e., from the very result in which they *of their nature,* and therefore *normally,* issue. If therefore, this END OF ACTION were the only element determining the good or evil of an action, it would follow that to determine in any given case the morality of an action, it would be necessary only to examine this END OF ACTION.

But according to the present thesis there are other elements that enter into the determination of the morality of an action and, therefore, further examination must be made before we can conclude that a given action, which is good *so far as this End of Action is concerned,* is in reality here and now good; for these other elements, without being able to change the intrinsic nature of the action, may still introduce into it, as it is here and now chosen by the will, something that will throw it out of harmony with the norm. When this happens, the action here and now willed is evidently a morally bad action, despite its intrinsic moral goodness or indifference.

On the other hand, if examination of the End of Action shows that any given action is of its nature in difformity with the norm, it is clear that no other elements, entering into the choice of the will here and now, can remove this *intrinsic* difformity, and so nothing can make such an action under any circumstances or willed for any conceivable motive, a morally good action.

This contrast between what is necessary to make a thing good and what is necessary to make a thing bad is expressed in the philosophical axiom,

Bonum ex integra causa, malum ex quocumque defectu.

END OF AGENT (as in Thesis 6) is the purpose freely

chosen by the agent, the purpose which he wishes to accomplish by means of this action.

CIRCUMSTANCES: are all those accidental conditions which in some way or other affect the volitional action; they may all be placed as answers to some one of the following interrogative particles: "Who, What, Where, When, by what means, and How?"

INTRINSICALLY AFFECTING: To understand the meaning of this expression, we must reflect that there are many "accidental conditions" which may surround a given action and which evidently have no bearing on the action's harmony or discord with the norm of morality, v.g., the use of one's right or left hand in stealing. Such circumstances do not intrinsically affect or modify either the end of action or the end of agent. However, there are other "accidental conditions" which just as evidently, to the view of all men of reason, have such bearing, v.g., to steal fifty cents or fifty dollars, or to steal from a destitute cripple or from a person of great wealth. Such circumstances do *intrinsically* affect either the end of action or the end of agent, and it is of these our thesis treats.

These circumstances are of two kinds:

1) *Aggravating or extenuating,* which merely increase or diminish the degree of moral good or evil in an action, without adding a new and distinct species of moral good or evil to that already given to the action by the end of the action or the end of agent or both. For example, a *greater* alms or a *longer* nursing of revenge is an aggravating circumstance; a *smaller* alms or a *briefer* dwelling resentfully on an injury is an *extenuating* circumstance.

2) *Specifying circumstances,* which are so-called precisely because they do give a new and distinct species of moral good or evil to that already given to the action by the end of action or the end of agent, or both. For example, to the moral quality given the act of murder by the end of action is evidently added a new and distinct moral quality by the circumstance that the murderer is the son of the victim.

PROOF

A.—The specific determinants of moral good and evil in man's volitional activity are those things which cause each particular

volitional act to have its harmony or discord and its particular (specific) kind of harmony or discord with the norm of morality.

But the things which do this are the end of the action, the end of the agent, and the circumstances intrinsically modifying either. *Therefore.*

Major: A definition and description of the specific determinants of moral good and evil.

Minor: The thing that gives each particular volitional act its own specific nature is the *object* that really terminates the will's activity (motion) in that particular act just as it is the object aimed at or the term moved towards that gives definite direction to any motion. To what else could the definite specific nature of the volitional act be due? The only other conceivable element that enters into an exercise of the will's activity is the nature of the free act looked at purely subjectively; this element cannot, however, explain the specific difference between a good and bad act since it is the same in both—for both depend in exactly the same way upon the free will.

But the object that really terminates the will's activity in any particular act is an exercise of that activity according to the measure in which it is at the moment intellectually apprehended:

1) as it is in itself, i.e., as productive of the result in which it normally issues (end of action).

2) as a means which can be directed to the attainment of some purpose which the agent desires (end of agent), and

3) in all its other definite circumstances of person acting; person acted on or about; of time and place; manner and means of acting, etc.

B.—A second proof is added which treats of each of the three elements separately:

a.—THE END OF ACTION (OBJECT) DETERMINES THE MORAL CHARACTER OF AN ACTION.

The specific nature of every act is determined by the specific nature of its formal object. For acts in general are distinguished and differentiated according to their objects, or according to the

result in which they issue. For when a thing is wholly *for* another, then *what it is* depends on that other. Now, acts are wholly for their formal objects. Hence it is from the object that we determine the specific character of the act. Thus we distinguish and differentiate the various acts of mind in Psychology by the objects which those acts concern. The sensitive act concerns a particular material object; the act of intellect a universal object. As this is true of all acts, so it is likewise true of the moral act. The end of action or object is the specifically moral factor in all acts. It is that which specifies the act, which gives it a name and puts it in a class. Thus, to destroy the life of another is called homicide; to take the goods of another is stealing—that is, these acts are put by their respective objects or ends of action into a particular moral species, to which we attach a particular name. Therefore, the object, or the result in which the action issues, determines the specific character of the moral act.

b.—THE END OF AGENT DETERMINES THE MORAL CHARACTER OF AN ACTION.

The end aimed at by the agent is the original source of the whole act, the motor-principle of the act; for the act that we do, with its object and its circumstances, is nothing more than a means to the realization of the end aimed at. Thus, if one gives alms for the purpose of gaining human praise thereby, the giving of alms is simply a means by which to gain the praise of men. The end or final purpose is thus the chief thing on which the will is fixed, to which it directs all else, and without which it would not act. And since the motion of the will takes its qualities or nature from the thing on which it is fixed and to which it tends, it follows that a will which tends to a good end is *so far* good, and that a will which tends to a bad end is bad. But the morality of an action resides chiefly in the will, so that a good or bad will, derived from the motive or purpose of an action, must necessarily contribute to the goodness or badness of that action. It is the end or motive which sets the will in motion and gives its own moral quality to the action which follows. One, then, who steals money in order to be able to commit adultery commits a sin against justice, induced thereto by a desire to sin against chastity, and as St. Thomas, following Aristotle, says, he is more of an adulterer than a thief. It is clear, therefore, that, as a man intends

the end more than the means, so the end is in one sense the principal moral element in the action, the chief determinant of the morality of the volitional action.

c.—CIRCUMSTANCES INTRINSICALLY AFFECTING END OF ACTION OR END OF AGENT DETERMINE THE MORAL CHARACTER OF THE ACTION.

The attendant circumstances integrate the object and are intended together with the object; so that the object can neither exist nor be intended without them. In their relation to the action, therefore, they take on to a certain extent the efficacy of the object which the action has in view, and hence they modify or change the specific character of the action.

It is obvious that circumstances of this kind are sources of morality, for they make the action conformable or not to the norm of morality. It is against right reason to strike any one unjustly, but it is still more inordinate to strike a parent. At the proper time, it is a good action to play in the proper place, and with good playmates; if any of these circumstances be wanting, the action becomes so far bad.

Again, to help indigent parents is in the opinion of all an act of higher moral quality than to assist an indigent stranger, for, whereas the latter act is a simple exercise of charity, the former is besides this an exercise of filial piety.

COROLLARIES

I. Hence the volitional action, in order to possess the requisite fullness of being in order to be good simply and without qualification—must be all good, that is, not only must the action of its nature and the end deliberately aimed at by the agent be good, but also the attendant circumstances. For a good action, like any other good thing, must possess a certain fullness of being, proper to itself. As it is not enough for the physical excellence of a man to have the bare essentials, a body with a soul animating it, but there is needed a certain grace of form, color, agility, and many accidental qualities besides; so for a good action it is not enough that proper means be taken to a proper end, but they must be

taken by a proper person, at a proper place and time, in a proper manner, and with many other circumstances of propriety. If the action is wanting in any of these things, that is, if either the action of its nature, or the end aimed at by the agent, or any of the circumstances be bad, the action itself is called bad simply and without qualification. It is the same in the physical order. A lame horse may have good sight, but it is a bad horse; it may be good with a qualification, but we do not speak of it as good simply—as a good horse—on the contrary, we speak of it as a bad horse, because it has not its natural fullness of being. Hence, the axiom quoted above: *Bonum ex integra causa, malum ex quocumque defectu.* A thing is good simply and without qualification when it is all good, i.e., when it has all the natural parts, and all up to nature's standard; a thing is bad, if anything is wanting in any of those parts that are naturally due to it.

II. Though in one sense the end aimed at enters more deeply into the morality of an action than any other element—since the end in view is what lies nearest to a man's heart as he acts, and is consequently more willed and desired than the means—nevertheless, it is not the end alone that determines the moral character of the action, but also the nature of the action itself which is chosen as a means to this end, and the attendant circumstances. Hence, unless the action itself and the attendant circumstances are good, the action is bad in spite of the fact that the end in view be most praiseworthy. This is expressed by saying that the end does not justify (make good) the means. By the means we wish to signify all that we do in order to attain our end or purpose. If these means be in themselves, or because of circumstances, bad, then no end can justify them. For a good intention certainly cannot make a bad action good.

With means in themselves indifferent, the case is otherwise. A good end does make those means good, while a wicked end vitiates them. In other words, a good motive gives its own moral quality to an indifferent action and makes it good. And so I do an act of charity by depriving a man of a knife with which he was threatening to commit suicide, while the same action, done with a view to making the knife my own, would be theft.

SCHOLION

In the course of the explanation given above, mention was made of actions which are intrinsically (of their nature, i.e., so far as

end of action is concerned) morally indifferent. That there are such actions is evident. No one would claim, for instance, that walking, standing, running, riding, etc., are of their very nature morally good or bad. In general, all those actions must be considered as morally indifferent, which are neither positively in accord nor positively out of accord with rational nature as such.

This is, however a purely abstract way of considering actions. To take a walk, for example, is in itself and considered in the abstract, i.e., apart from the end or intention of agent and from the circumstances, neither morally good nor a morally bad action. But in the concrete, a man's intention, and the circumstances in which the action is performed, necessarily give it a moral quality. The intention must be good or evil, the circumstances must be such as to make the action conformable to rational nature or not, and so in the concrete any particular action must be either good or bad morally; it cannot be indifferent.

However, while this last conclusion is here embraced as true, it should be noted that it is not accepted by some philosophers who are still in perfect agreement with all the previous theses we have defended.

THESIS XIV

Man's supreme good or the attainment of blessedness can, by morally good acts, be truly merited with God; but the merit that obtains between man and God is not of the same kind as that which obtains between man and man.

EXPOSITION

A man can merit with God and with other men. That is he can behave towards God and man in such a way as to deserve in justice a reward at their hands. Merit and demerit result from imputability, that quality that makes man the cause and proprietor of his acts. Only rational beings are capable of merit and demerit, because merit and demerit presuppose freedom and only rational beings are free outside of God. Imputability implies ownership, and freedom alone invests man with ownership in his acts. Necessary agents are not owners.

Merit means right to payment for a favor done, it means a reward. Demerit means right or liability to payment for harm done another, it means punishment or penalty. Justice is the measure of merit and demerit.

Justice is the virtue that inclines one to render to everybody his due. It is of three kinds, commutative, man to man; legal, citizen to state; distributive, state to citizen.

Equity is a merciful provision meant to be corrective of justice. It has application where reward is due, not in strict justice but from a view point of fairness or honor.

DEFINITIONS

Man's supreme good—that good or that object which fully satisfies man's capacity and longing for happiness.

Morally good acts—the free acts of man that are in harmony with man's rational nature looked at completely and in all its essential relations.

Truly merited—by these words are signified condign merit.

Merit—that quality or exigency in man's free acts by virtue of which they are deserving of a reward.

Condign merit—merit or a reward due out of justice which arises from a contract or from a promise. E.G., a man's wages.

Congruous merit—merit or a reward due not out of justice but from a sense of decency or propriety. E.G., a distinguished service medal which is due to a man not from any contract or promise but from a sense of decency or propriety.

Imputability—that quality in man's free acts by virtue of which they can be attributed to the agent in praise or blame.

Responsibility—is the condition of a man, who having sufficient knowledge, and being free from coercion (at least physical), can act or not as he chooses and is therefore accountable for his determination. Whence it is that those who wish to lessen or deny imputability and responsibility for a certain action are wont to say that they were not free or that they did not know the real character of the act.

PROOF

Man's supreme good can by morally good acts be truly merited with God, if the conditions for true merit are present in these acts.

But the conditions for true merit are present in these acts.

Therefore man's supreme good can be truly merited with God.

Major is clear because where the conditions for true merit are present, there true merit is present.

For true merit it is required that the acts be imputable to the agent; that the acts confer a benefit on the other party; that there be an exigency for a reward in these acts.

Minor: These conditions are fulfilled in the morally good acts of man:

1. These actions are imputable to man because man is physically free to place such actions or not to place them.

2. These actions confer a benefit on God, namely such actions give extrinsic glory to God although they do not add in any way to God's intrinsic perfections

3. These actions have an exigency for a reward not because of any contract between man and God in the strict sense of the word but because of a promise freely made by God to reward such actions. This promise of God is clear from the light of reason

which reveals God to us as the Rewarder of the good and the Punisher of the wicked. Moreover like any wise lawgiver God must have a sanction (a reward or punishment) attached to His law, and these rewards or punishments really constitute what we mean by merit and demerit.

It is also clear that the reward or punishment that God holds out to man is the attainment or loss of beatitude or perfect happiness. Confer thesis on man's destiny where we proved that man is naturally destined for perfect happiness on the condition that he keeps God's law. This is man's supreme good and can be merited because God has promised this reward to those who keep His law. Moreover the loss of beatitude is our portion if we fail to keep God's law. Confer thesis on sanction.

COROLLARY

Although we cannot claim a reward for paying another a debt still if the creditor has promised us a reward for paying the debt we can claim a reward not on the score of paying the debt but on the score of the promise.

In the case of condign merit the person benefited must accept explicitly or implicitly the service rendered or at least he ought to accept it. If this condition were not required I should be obliged to pay every tradesman who might choose to send me his wares.

PROOF

Part 2: Merit between God and man, is not merit in the same sense as merit between man and man.

The good we do our fellow men, in so far as it is not due them, obliges them strictly to a proportionate return; but we cannot give anything to God which is not entirely due Him, since as creatures we belong in every way to God, Our Creator. Consequently if God owes us a reward at all it is not because of the benefits He receives at our hands but only because He owes it to Himself to fulfill His promises of a reward. By implanting in every heart an insatiable longing after perfect happiness, God has implicitly promised us a reward—on condition of course, that we do our part. Therefore we can merit a reward from God and men: from men, by reason of that which they owe us; from God, by reason of that which He owes Himself.

IV. LAW

THESIS XV

There exists in God an eternal law.

PROOF AND EXPLANATION:

1. Reason discovers that God has created all things and that God being an All Wise Creator, has ordained all things for an end and a purpose. In a word God had a plan when He created the universe.

2. Moreover God cannot be indifferent and unconcerned as to whether His plan is carried out but God must will and does will that this divine plan should be carried out. Therefore it pertains to God to direct man and all things to their proper ends in a way consonant with their natures.

But this divine plan of creation and the efficacious will of God that this plan be carried out really constitutes the eternal law of God.

Therefore there exists in God an eternal law.

Major: To deny that God has any plan in creation is to deny that God has that wisdom found in every human rational artist. To deny that God wills that His plan be carried out is a denial of God's wisdom and goodness. What would we think of an artist who worked but had no plan or purpose in his work or of an artist who had no care or concern in the execution of his plan.

Minor: But this plan of the divine intellect and this act of the divine will by which He decrees that this divine plan be carried out really constitute the eternal law for the eternal law is defined as an ordination of the divine intellect, mandatory in form, established and promulgated by a competent authority for the common good.

This divine plan is evidently:

An ordination of the divine intellect for it constitutes a rule of action to guide His creatures.

Mandatory in form for the decree of the divine will that this

plan be carried out makes the ordination of the divine intellect mandatory in form. God commands us to do good and avoid evil. He does not merely counsel us or advise us. Man cannot disobey this rule without incurring moral guilt.

Established by a competent authority for certainly the Creator and ruler of the universe is a competent authority.

This divine plan is promulgated for a plan that was not to be made known or to be promulgated would be useless. Therefore God must have decreed to promulgate this law from eternity although actual promulgation did not take place until time began and creatures began to exist.

For the common good for it establishes order and order is for the common good just as disorder is against the common good.

This divine plan exists from all eternity because God being unchangeable, every act of the divine intellect and will is from eternity.

COROLLARIES

In the widest sense of the term the eternal law of God governs the activity of all creatures both rational and irrational. According to the nature in which it is imbedded the rule of action is functionally differentiated. In unconscious beings, i.e., in the inanimate and vegetative world it impels to action in a way uncontrolled by consciousness. In sentient being it urges to action only subsequently to knowledge but with an irresistible impulse. In rational beings it impels to action through knowledge and by an impulse that can be freely actuated. Here the intellectual knowledge had by man is not merely declarative and directive but normative as well, i.e., it represents a definite objective rule with which our actions should conform, though we retain the physical liberty of refusing to conform them therewith.

This act of God's will — this eternal law — is of course an eternal moral law. For it produces a moral necessity and is imposed on moral creatures who are endowed with freedom and impels them to the observance of the order which is necessary for morally good conduct.

Does this eternal law merely look to the direction of free creatures and comprehend moral laws and no other laws or does it also include physical laws which govern irrational creatures?

In other words is there such a thing as an eternal physical law? There is in the sense that there is necessarily in the mind of God the same kind of knowledege and determination respecting the end of creatures that act with physical necessity, the attainment of that end by said creatures and the means necessary to said attainment, namely actions in harmony with their own respective natures. Such a plan in the mind of God and consequent act of the will regarding the activity of irrational creation clearly squares with the definition of eternal law and since it imposes on its subjects a physical necessity, it may rightly be called an eternal physical law. However this terminology is not commonly used and the term "eternal law" without qualification, is always accepted to mean the will of God binding rational creatures.

The words of St. Thomas Aquinas expressing our thesis and the proof of the same are worth quoting because of their intrinsic value and because they are so familiar to every one who is in the least acquainted with the literature on the subject. He says:

"As with every artificer there preexists the plan of things that are set up by art so in every governor there must pre-exist a plan of the order of the things that are to be done by those who are subject to his government. And as the plan of things to be done by art is called a pattern or examplar, so the plan of him who governs subjects, has the character of a law. Now God by His wisdom is the Creator of all things and stands to them as the artificer to the products of his art. He is also the governor and controller of all the acts and movements that are found in any creature. And as the plan of the divine wisdom has the character of an exemplar, pattern or idea, in as much as by it all things are created, so the plan of the divine wisdom moving all things to their due end, has the character of a law. And thus the eternal law is nothing else than the plan of the divine wisdom, as the director of all acts and movements."

IV. The following quotations are also of interest and value:

"The law is the reason and mind of a wise being well-fitted to order or forbid."—Cicero.

"This law (the moral law obliging man) did not begin to exist when it was written, but when it was born, and it was born at the same time with the divine intellect. Wherefore, the true law, the primary law, the law which can fully command and for-

bid, is ever the true mind of the supreme being, Jupiter."—Cicero, *de Legibus,* Lib. 11, cap. 4.

"Laws are essential emanations from the self-poised character of God."—Tupper.

DIFFICULTIES

Obj. 1. Promulgation is essential to law. But promulgation from eternity is impossible. Therefore, an eternal law is likewise impossible.

Reply. Dist. maj.: Promulgation is essential to law in the passive sense, i.e., to law considered as received by those subject to it and binding them, conc. maj.; is essential to law in the active sense, i.e., to law considered as it is in the mind and will of the legislator, sd.: if there is question of a human law, conc. maj.; if there is question of Divine Law, neg. maj. Contrad. min.

Obj. 2. In the case of human legislation, the interior acts of intellect and will of the law-giver do not constitute the law. Therefore, neither do God's interior acts of intellect and will constitute the Eternal Law.

Reply. Conc. antec. Neg. concl. and the parity: With regard to promulgation, the Eternal Law differs from all other laws in this, that the former (the Eternal Law) is rightly considered as complete and perfect by the very fact that it is established in the mind of the law-giver; the latter, on the contrary, are not completed until they have been actually promulgated. The reason of the distinction lies in this, that the eternal decree of God is absolutely unchangeable, and without any intrinsic change binds those subject to it in time; the decree of man, on the other hand, is subject to change and therefore, as long as it has not been promulgated by way of law, it is not considered as definite, but rather as a mere purpose and intention to frame a certain law. Hence, no public promulgation is required that the Eternal Law actually impose an obligation; it is sufficient that it becomes known to those subject to it. On the part of God, therefore, His law is eternal. But this Eternal Law of God produces its effects in time.

Obj. 3. A law is an act of jurisdiction. But before creation there was no jurisdiction in God. Therefore, there cannot be an eternal law.

Reply. Dist. maj.: A law passively considered is an act of jurisdiction, conc. maj.; merely actively considered, i.e., as it is in the mind and will of the law-giver; neg. maj. Conc. min. Dist. concl.—Acts of dominion and of jurisdiction are transient acts; the Eternal Law, on the other hand, in its purely active sense is an immanent act of God.

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THESIS XVI

There exists in man a natural moral law, namely: a rule of action mandatory in form, which reason itself discovers has been established by the Author of man's nature and promulgated by being imbedded in the very nature of man.

INTRODUCTION

The Eternal Law is, as we have seen, the necessary will of God binding created things to certain lines of action, in keeping with their natures—the rule of action which, according to the eternal decree of God, created things are bound to follow. As an eternal law it has existence only in God, being an immanent act of the Reason and of the Will of God. In order that it become operative and prove itself effective as a guiding rule of action for created things, it cannot remain locked up in the mind and will of God, but must in some way be communicated to the creatures themselves. In this communication consists the promulgation of the eternal law. The question, therefore, arises:

"In what manner has the eternal law been promulgated?"

In other words, in the previous thesis we treated of the moral law in its *active state,* as existing in the mind and will of the law-maker; now we look at the same law in its *passive state,* as existing in its application to its subjects.

In answering our present question, we must recall that God does not move and govern his creatures towards their appointed end by a mere external directive impetus, as the archer, for instance, does his arrow, but by means of internal impulses and inclinations, which He has bound up with their natures. *Irrational creatures* are urged, by means of physical forces or natural impulses and instincts, to exercise the activity peculiar to them and keep the order designed for them. With reference to the irrational creation, therefore, the eternal law is promulgated by the internal inclinations and impulses, which guide and direct those beings to their final goal. *Man,* on the other hand, is a being endowed with reason and free will; as such he cannot be led by blind impulses and instincts, but must depend upon practical

principles and judgments, which point out to him how he is freely to determine and order his own conduct.

We do not and cannot—consistently with sound psychological teaching—maintain that nature has provided man with intellectual judgments already formed — innate ideas and judgments as to what he ought and ought not to do—but we mean by saying that the practical judgments of reason are nature's guide for man's actions, that nature has gifted man with an intellectual faculty of judgment and given that faculty an inclination towards and facility in judging what he ought and ought not to do. And through this power of judgment—this light of natural reason—God's will (law) is made known to man and becomes effective in guiding his free actions towards their appointed end.

What we state, therefore, and prove in the present thesis is that the judgments which man makes with this natural power of reason regarding good and bad, obligatory and non-obligatory, constitute the promulgation of the eternal law with regard to his volitional actions, in other words, "The moral law is promulgated to man by the light of reason."

Further than this, however, we maintain that this very promulgation through reason is itself properly called a law, and, as embedded in the nature of the subject bound thereby, it is properly called "natural" law. For, as we shall see, the aforesaid judgments are not mere knowledge of the law, but authentic declarations of the will of a superior as binding and declarations made through a medium chosen by him for this very purpose.

EXPOSITION

LIGHT OF REASON: i.e., the natural power of man's intellect to apprehend objective truth, to compare apprehensions with one another and so perceive identity or diversity, and to reason, from the comparison of two or more judgments, to further conclusions.

NATURAL LAW: this term makes it necessary to give another division of law, a division made according to the way the "rule of action" is promulgated. According to this principle of division, law is divided into:

1) NATURAL law — A rule of action which is established by the Superior of the Universe and promulgated by being im-

bedded in the very nature of the creature whose actions are to be controlled by it.

It is therefore of the essence of natural law that it be a rule of action which is necessarily imposed upon the subject and which can be discovered by the light of natural reason studying the nature of the subject.

2) POSITIVE law—A rule of action freely established by a competent authority and promulgated not in the nature of the subject, but by some external sign (oral or written).

It is therefore of the essence of positive law that it be a rule of action which is imposed upon the subject *freely* (i.e., the one who imposed it was not necessitated to do so) and which can be discovered not by the light of natural reason alone in its study of the nature of the subject, but by means of some external signs of the law-maker's will.

N. B. Knowledge of a positive law is had of course by the aid of reason but in a positive law reason is aided by some external sign. Thus a man who reads a sign uses reason to read. In the natural law knowledge of it comes through the use of reason unaided by any positive or external sign. Thus by studying and analyzing our own nature we arrive at the conclusion that lying is wrong.

Our thesis deals with the natural moral law which may now be fully and properly described as a rule of action mandatory in form, which reason itself discovers has been established by the Author of man's nature and promulgated by being imbedded in the very nature of man.

The elements which are distinctive in this definition and thus differentiate it from the generic definition of moral law are the following:

WHICH REASON ITSELF DISCOVERS—A rule of action for moral intelligent beings may be made known either—

a) through the natural powers of reason:

b) through some external sign, oral or written, given by the maker of the rule. Positive Law).

AUTHOR OF MAN'S NATURE—This is the "competent authority" mentioned in the general definition of the moral law.

IMBEDDED IN THE NATURE—i.e., not (as in the case of positive law) made to apply to its subjects by being brought to their notice through the medium of some external expression, but made to apply to them by being itself constituted a very part of their nature. According to the nature in which it is imbedded, the rule of action is functionally differentiated. In unconscious beings, i.e., in the inanimate and vegetative world it impels to action in a way uncontrolled by consciousness. In sentient beings it urges to action subsequent to knowledge, but with an irresistible impulse. In rational beings it impels to action through knowledge. In rational beings the rule of action represents a definite objective rule with which our actions should conform, though we retain the physical liberty of refusing to conform them therewith.

N. B. The generic difinition of a moral law including both positive and natural law is: "A RULE OF ACTION MANDATORY IN FORM, ESTABLISHED AND PROMULGATED BY A COMPETENT AUTHORITY FOR THE COMMON GOOD."

A moral law only applies to rational beings e.g. man.

PHYSICAL LAWS OR THE LAWS OF NATURE—which govern the actions of irrational creatures may be defined as the constant and uniform modes of activity which irrational natures follow because of a tendency impressed on their natures by God.

Examples of physical laws are the law of gravity; the boiling point and freezing point of liquids; the laws of chemical affinity, etc.

When we speak of the natural law we mean the natural moral law which governs the activity of free beings. The moral law operates not by any physical compulsion but it operates on the intellect and will by knowledge. Examples of the natural moral laws are: "Do good and avoid evil"; "Right order must be observed"; "Murder and stealing are wrong and forbidden"; etc.

THERE EXISTS IN MAN A NATURAL MORAL LAW.

PROOF DRAWN FROM THE DIVINE WISDOM.

The decree of Creation necessarily implies that God willed to direct and ordain man to his final end in a manner suited to his free, intelligent nature. *But* the natural moral law is the only

way in which God can efficaciously direct and ordain man to his final end in a manner suited to his free, intelligent nature. *Therefore,* there exists in a man a natural moral law.

The Major: God was free to create or not create. but having freely decreed to create man, He must necessarily destine him for a final end and, in a manner suited to man's free, intelligent nature, urge him to the attainment of that final end; that is, when God freely decreed to create man, He necessarily had the efficacious will that man should, by the free observance of that moral order which is in conformity with his rational nature, glorify his Creator and thus reach his final end. To suppose otherwise would imply either that God could not devise the means by which to guide and direct man to his final end or that He is indifferent and unconcerned whether man tends to his final end or not. The former of these alternatives is plainly derogatory to God's Wisdom, the latter to His Constancy of Purpose. Therefore, in decreeing to create man and to destine him to a final end, God must necessarily have the efficacious will to direct and urge him, in a manner suited to his free, intelligent nature, to the attainment of that final end; that is, God must necessarily will to make it obligatory on man to glorify his Creator by the free and intelligent observance of the moral order.

The Minor: **That the natural moral law is the only effective** way in which man can be led and urged to the attainment of his final end, is evident. A mere counsel or wish on the part of God would obviously not be an effective means of inducing man to observe the moral order, since the moral order is connected with many and great difficulties and not infrequently demands great sacrifices from man. Much less could God compel man to observe the moral order by inner necessary impulses and inclinations, because this would be opposed to man's free will. Hence, the only means by which God can urge man to observe the moral order, and thus direct and guide him to his final end, is law. This is the only means which is in keeping with the free, intelligent nature of man. That this law must be a natural law, that is, one known to him by the fact of his rationality or the light of his rational nature, is also evident. For man, like every other creature, must tend towards his destiny ***naturally,*** or by the ***specific*** force, which *nature* has given him. Besides, the end he is to reach is a natural one, and, therefore, to be reached by natural

means. Therefore, the natural moral law is the only means by which God can guide and direct man to the attainment of his final end in a manner that suits man's rational nature.

PROOF FROM HUMAN EXPERIENCE:

The natural law is nothing else but the light of reason imbedded in the nature of man by which we perceive that some actions are right and other actions are wrong; that we are bound to avoid wrong actions and to perform right actions.

But it is a fact of experience that we are endowed with this light of reason.

Therefore experience proclaims the existence of the natural law.

Minor: We necessarily judge that certain actions are morally good; and other actions are morally bad. We also judge that bad actions are unlawful and are prohibited; that among good actions, some are necessary for right order and therefore are enjoined and prescribed. We judge therefore that *de facto* we are absolutely bound to avoid bad actions, and absolutely commanded to perform good actions at least in so far as they are necessary for right order.

If we obey this authority commanding us to do good and avoid evil we experience peace of mind; if we disobey this authority we experience the reproaches of conscience. That this authority thus commanding us is the Author of Nature Himself, is clear from the manner in which this Authority acts in the case of each individual conscience. For although unwilling and reluctant to obey the behests of this authority we nevertheless feel constrained to do so. Moreover we reverence this authority as something distinct from ourselves, as our superior, and as the most solemn and sacred Custodian of the universal order.

When we do wrong and violate the right order the violation causes fear and by the internal voice of conscience we fear some one as an avenging and threatening judge.

Moreover this fear which arises after wrong doing does not merely accompany public crimes but also hidden and private crimes and sins, even where no human judge is to be feared.

PROOF DRAWN FROM THE UNIVERSAL PERSUASION AND CONVICTION OF MANKIND:

The history of all nations and ages testify that men have at all times and all places recognized and acknowledged a natural law imposed upon them by a Divine authority commanding them to do good and avoid evil.

Amidst all nations and peoples we find a tendency to placate the Divinity for crimes and sins.

Everywhere the Deity is worshiped as the Rewarder of the good and the Punisher of the wicked.

The value of the argument from the universal consent of mankind is a valid and powerful argument. It is based on the veracity of our perceptive faculties. Some men may err, but to say that all men of all ages can err on obvious and important facts, is to admit that man is incapable of attaining truth and that our perceptive faculties and senses are not trustworthy. This is really to assert that man can not attain certitude and to fall into the error of scepticism.

As Lincoln put this argument — "You can fool all the people some of the time and some of the people all the time, but you cannot fool all the people all the time."

SCHOLIA

1. Though there is some difference of view regarding this point, it is commonly held that—

1) The natural law, looked at *formally,* consists in the actual dictates (judgments) of practical reason as to what ought to be done or omitted by man:

2) The natural law, looked at *virtually,* consists in the light of reason or in practical reason, in so far as this has a *natural* and *necessary* inclination and facility in eliciting said judgments.

Using the term in this second sense—i.e., "virtually"—natural law may be defined as:

The light of natural reason by which we distinguish what is morally good and hence either obligatory or at least lawful to do, and what is morally bad and hence obligatory to avoid.

The following paragraphs, in giving a further explanation of the notions contained in this definition, will serve to throw further light on this all-important subject.

The Creator has endowed man with the ability and the inclination to form many concepts and develop principles. As soon as he comes to the use of reason, he forms, by a natural necessity, on the basis of experience, certain general concepts of theoretical reason, e.g., those of being and non-being, of cause and effect, of space and time and so he arrives at universal principles, e.g., that "nothing can be and not be at the same time," that "every effect has its cause," etc. As in the theoretical, so also is it in the practical order. As soon as reason has been sufficiently developed, and the individual can somehow or other practically judge that he is something more than a mere animal, by an intrinsic necessity of his nature he forms the concept of good and evil, i.e., of something which is proper to the rational nature which distinguishes him from the brute, and which is, therefore, something worth striving for, and of something which is unbecoming and, therefore, to be avoided. And as by nature he feels himself attracted by what is good and repelled by what is evil, he naturally forms the judgment, that "good is to be done and evil avoided," that "man ought to live according to the dictates of reason," etc. The general practical judgments and principles: "Do good and avoid evil," **"Lead a life regulated according to reason," etc., are the basic precepts of the natural law.**

In its entirety, however, the natural law comprises all those precepts or obligatory rules of conduct which arise from the very nature of man as God has constituted that nature, and which the purely natural reason manifests to us as necessary to the attainment of our ultimate end and highest good. Hence, *according to its contents,* the natural law may be defined as—

That rule of conduct which is prescribed for us by the Creator in the constitution of the nature with which He has endowed us," or—

The *obligatory norms* of moral conduct inasmuch as they are manifested to us by the light of natural reason.

The natural law, then, may be said to contain three constituent elements: the discriminating norm, the binding norm, and the manifesting norm.

a) The *discriminating* norm is, as we have already seen, rational human nature as such, objectively considered. It is, so to speak, the book on which is written the text of the law, and the

classification of human actions into good and bad. Strictly speaking, our nature is the *proximate discriminating norm* or standard. The ultimate norm, of which it is the partial reflection and application, is the Divine Nature itself, the ultimate groundwork of the created order.

b) The *binding* or *obligatory* norm is the Divine authority, imposing upon the rational creature the obligation of living in conformity with his nature, and thus with the universal order established by the Creator.

c) The *manifesting* norm, which determines the moral quality of actions tried by the discriminating norm, is reason. Through the medium of this faculty we perceive what is the constitution of our nature, what kind of action it calls for, and whether a particular action possesses this requisite character.

II. From all this it should be clear how accurate and adequate is the classic definition of the Natural Law, given by St. Thomas:

"The participation of the eternal law in a rational creature." (*Summa Theologica,* 1, 2, q. 91, a. 2).

It is a participation and a reflection of the Eternal Law in the same sense that all finite perfections are participations and reflections of the Divine Perfections. Just as created goodness, beauty, truth, etc., are participations and reflections, finite expressions and imitations of the Divine Goodness, Beauty, Truth, etc.; just as man by his existence, life, reason, nature, etc., shares in the Divine Existence, Life, Reason, Nature, etc., so is the natural law in man a reflection and a participation, the finite expression and imitation of the Eternal Law of God. For as the Eternal Law of God is nothing else than the eternal plan and intention in the Mind and Will of God, according to which He rules all things finite and directs them to their appointed end, so is the natural law a norm or rule by which we guide ourselves to our final ends—to the end appointed by the Creator. And as the Eternal Law is a dictate of God's Reason presupposing an act of His will, in virtue of which it directs and moves all created things, so is the Natural Law in us a dictate of our human reason. As the building is a reflection and an expression of the plan in the mind of the architect, and as the work of art in like manner reflects the mind of the artist, so does the Natural Law reflect and mirror the eternal plan in the Mind of God—it is the finite

expression of the Eternal Law. And if the Natural Law abides in our minds and hearts and is the guiding principle of our actions, our ideas of the moral order and our moral conduct will reflect and mirror and be conformable to the eternal plan in the Mind of God—our rule and conduct will, as far as this is possible to mere finite beings, participate and share in the Eternal Law of God.

III. The following quotations are added both because they show the importance universally attached in the minds of men to the Natural Law and because some of the expressions found herein are very striking evidence of an equally widespread acceptance of the more fundamental truth that it is man's rational nature, looked at adequately, which is the norm and standard of good and evil, the norm and standard, in other words, in accordance with which God himself has legislated for man's own conduct.

"Unwritten and steadfast customs of the Gods."—Sophocles, *Antigone.*

"Natural laws, which are observed alike among all nations, are due to a divine providence: they remain in full force and are immutable Pandects, Bk. I., Tit. 2.

"There is a law, judges, not written, but born within us, which we have not learned or received by tradition, or read, but which we sucked in and imbibed from nature, itself, which we were not trained in, but which is ingrained in us."—*Cicero, Pro Milone.*

"Right reason is indeed a true law, in accord with nature, diffused among all men, unchangeable, eternal. By its commands it calls men to their duty, by its prohibitions it deters them from vice . . . . There shall no longer be one law at Rome and another at Athens, nor shall it prescribe one thing today and another one tomorrow, but one and the same law, eternal and immutable, shall be prescribed for all nations and all times, and the God who shall prescribe, introduce and promulgate this law shall be the one common Lord and Supreme ruler of all, and whosoever will refuse obedience to Him shall be filled with confusion, as this very act will be a virtual denial of his human nature; and should he escape a present punishment, he shall endure heavy chastisement hereafter."—Cicero, *De Republica,* Bk. III, Cha. 23.

"Two things fill the mind with ever new and increasing admiration and awe, the oftener and the more steadily we reflect on them; the starry heavens above and the moral law within. I have not to search for them . . . . I see them before me and connect them directly with the consciousness of my existence."—Kant, *critique of Pure Reason—Conclusion.*

"There are the eternal, immutable laws of good and evil to which the Creator himself in all His dispensations, conforms; and which He has enabled human nature to discover, so far as they are necessary for the conduct of human actions."—Blackstone, *Comm. Introd.,* Sec. 2, No. 40.

"When in the course of human events it becomes necessary for one people to dissolve the political bonds which have connected them to another and to assume among the powers of the earth the separate and equal station to which the laws of nature and Nature's God entitles them," etc.—*Declaration of Independence.*

"By the law of nature, I understand those fit and just rules of conduct

which the Creator has prescribed to man as a dependent and social being, and which are ascertained from the deductions of right reason, though they may be more precisely known and more explicitly declared by revelation." —Chancellor Kent (quoted by Mackensie, *Roman Law*, p. 54).

"We might define it as the law which determines the conditions of perfect human co-existence."—Lorimer, The Institutes of Law, Introd. p. 2, 24 ed.

DIFFICULTIES

Obj. 1. We cannot admit as belonging to human nature what deprives man of liberty. But law deprives man of liberty. Therefore, there cannot be a Natural Law.

Reply. Dist. maj. . . . . what deprives man of freedom of choice, conc. maj.; of freedom of independence, neg. maj. Contrad. min.

Inst. But the Natural Law would deprive man of freedom of choice; therefore, it cannot be admitted. Proof of min. subs. Every law imposes a necessity. But what imposes a necessity deprives man of freedom of choice. Therefore, the Natural Law would deprive man of freedom of choice.

Reply. Neg. min. subs.: In proof, dist. maj. Every law imposes a physical necessity, i.e., physically determines the will, neg. maj.; imposes at least a moral necessity or obligation, that is, *morally binds* the will, but leaves it *physically free,* conc. maj. Contrad. min.

Obj. 2. If the natural law existed, it would be inseparably connected with human nature. But no law is inseparably connected with human nature; because children and the insane are not bound by any law. Therefore, the natural law does not exist.

Reply. Dist. maj.: . . . . it would be inseparably connected with human nature, at least in its *first remote act,* conc. maj.: in its *first proximate* and in its *second act,* neg. maj. Contrad. min. The Natural Law, considered in its *second act,* is the actual judgment on moral conduct, e.g., "Do good and avoid evil," "I must not kill," "This particular action is forbidden," etc. Considered in its *first act,* it is the inclination or aptitude of forming such practical judgments. This latter may be proximate or remote. In its *proximate first act* it is the inclination or aptitude of forming such practical judgments by reason of acquired habits; in its *remote first act* it is nothing else than the intellect itself, which of its very nature is inclined to form such practical judgments, and is prevented from doing so solely by extrinsic and accidental

causes, as in the case of children and of the insane. Hence, in its remote first act it exists in all men; in its second act it exists only in those who have the use of reason.

Obj. 3. God is most free in all His external actions. Therefore, He is free to promulgate the natural law or not.

Reply. Dist. maj.: God was most free to create or not create, conc. antec.; supposing the decree of Creation, He was free to impose or not to impose the natural law, i.e., was free to will or not to will that man should by the observance of the moral order, tend to his final end, neg, antec.

Obj. 4. If there existed a natural moral law, human laws would be unnecessary. But this is contrary to the experience of men. Therefore, a natural moral law does not exist.

Reply. Dist. maj.: If the natural law were clearly manifest in every particular case and if it clearly determined all the means by which the end of society is to be ascertained, conc. maj.; if such is not the case, neg. maj. Contrad. min. (Cf. Thesis 19.)

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THESIS XVII

Obligation Arises from Moral Law.

INTRODUCTION

The existence of an absolute and categorical necessity binding Man's physically free will to do what is morally good and avoid what is morally evil is, as we have noted from the outset of our study, universally admitted. The question which must now be answered is this:

"Whence comes this necessity or binding force? What is the source of this obligation?"

To this question different answers have been given by different schools of Philosophic thought:

1) The Rationalistic School, under the leadership of Emmanuel Kant, answers:

"The source of obligation is the dictate of the autonomous reason, or the Categorical Imperative."

2) The Evolutionistic School, represented by Herbert Spencer, answers:

"The source of obligation is human nature looked at precisely in its present stage of evolutionary development."

3) The School of "Independent Morality" answers:

"The source of obligation is civil society or the State."

N.B.—These three opinions agree in making obligation altogether independent of and disconnected with any force or law that is supramundane.

4) Among Scholastic Philosophers the answer almost unanimously given is that expressed in our present thesis.

EXPOSITION

OBLIGATION: The concept of obligation, thus far analyzed, namely, as a "NECESSITY" clearly involves four elements, viz.:

1) One who or that which necessitates.

2) A subject necessitated.

3) That to which the subject is necessitated.

4) The necessity itself, or the obligation FORMALLY looked at.

With regard to these elements, the second and third are manifest in the present subject-matter. The subject necessitated is man's free will, the thing to which that will is necessitated is the realization in its volitional actions of the ideal of conduct, in other words, the doing of moral good and avoidance of moral evil.

Our present problem is to discover who or what it is that has actually necessitated the free will to such a line of conduct (first element). To do this it is necessary to make a further analysis of the notion of obligation looked at formally, or as it is in itself (fourth element). This we do in the following paragraphs.

The only necessity, as was mentioned in the previous thesis, that can effect a free will is a FINAL necessity, one which arises from an end apprehended by the intellect. *For,* this necessity involves a reason which is absolute, not merely conditional (conditioned on some subjective disposition of the agent), why good should be chosen in preference to evil, even though the choice of the evil is within the power of the will. And such a reason can be nothing else but a good apprehended by the intellect in such a way as to move the will to the choice. A good thus moving the will is a final cause. Therefore, the necessity produced by it is a final necessity.

Now the only good or end that can be apprehended by man as absolutely and essentially necessary for his will is that good or end which corresponds adequately to the necessary and unlimited tendency of the will itself in such a way that other goods are simply and absolutely speaking not necessary for man. And the only good that does thus correspond to this tendency is, as we have seen, God himself, the absolutely ultimate end of all created things, to Whom, therefore, all things else, both those that can be proximate or intermediate ends for man's activity, as well as man's very nature and its own perfection are essentially subordinated.

Man's reason, therefore, apprehends God, the one end essential to man, as a good above all else to be loved, before all other

goods to be preferred. Further, man's reason apprehends all others goods as goods to be considered and treated as subordinate with reference to the tendency of his own will; in other words, man's reason apprehends that his own will with regard to all these subordinated goods must be itself subordinated to God's will. To refuse this subordination and subjection is to depose God from the place which, as the ultimate end for the tendency of man's will, He necessarily demands; it is, in consequence, to turn man away from his last end. And this is the absolute and efficacious reason why the end which has been imposed on man by God's will is to be chosen in preference to any other end which can lead man in any other direction.

It is clear from the thesis on the End and the Good that morally bad actions can and will lead man away from God, his last end, and therefore it is clear that there is an absolute and efficacious reason why these actions are TO BE avoided and their opposites performed by man's physically free choice.

IT IS THIS NECESSITY of conforming the human will to the Divine, and thus keeping in human action the due order between man's nature and God, that constitutes the moral bond we call obligation.

And since, as is clear from the foregoing analysis, this necessity is the proper, essential and immediate effect of God's will regarding man, obligation has its source in the will of God.

Finally, the real (formal) necessity (obligation) consists in the intrinsic connection between an action, or its omission, and God, precisely in so far as this intrinsic connection is the object of God's will. And this formal obligation may now be defined as follows:

OBLIGATION IS THE NECESSITY, KNOWN BY REASON, OF POSITING OR OMITTING AN ACT, WHICH HAS AN INTRINSIC CONNECTION OR OPPOSITION WITH AN ULTIMATE END AND AN ABSOLUTE GOOD, IMPOSED BY ONE HAVING AUTHORITY.

N.B.—Further inspection of the conclusion reached in the foregoing analysis reveals that we have therein been led to the knowledge of two distinct yet essentially interdependent truths, viz.:

1) Moral law exists and is the source of obligation.

2) Moral law itself has its source in the will of God.

We shall now advance further more detailed and more technical explanations and proofs of these two propositions.

LAW is a rule of action imposed by a superior and made binding on an inferior.

N.B.—The term "LAW" is also used in derivative and analogous meanings to signify:

1) The observed uniform sequence of phenomena or the formal statement of such uniformity in a given class of cases, e.g., Grimm's Law in Philology, Aristotle's Law of Diminishing Returns, the Periodic Law, the Law of Gravity. In this sense Law implies a practical necessity of uniformity in phenomenal sequence. (Theoretical Law).

2) A rule or custom existing in a limited section of a community and enforced by the opinion of that section within itself, e.g., Laws of Etiquette. (Social Law).

LAW is divided, according to the nature of the being on which the rule is made binding, into:

1) PHYSICAL law—a rule of action impressed on material and non-free creatures which physically compels to uniform action by an innate compulsion of nature, e.g., the law of gravitation, the law of growth of plants and animals.

2) MORAL law—a rule of action mandatory in form, established and promulgated by a competent authority for the common good.

N.B.—a) Such a law is placed on free creatures and is called moral because it concerns customary actions, which actions, being volitional, are imputed to man as a responsible agent.

b) Law in this sense implies a necessity imposed on the will and in keeping with the free nature of the will, i.e., a necessity which is peremptory, but not compelling. Such a necessity we called in the last thesis a moral necessity or obligation.

MORAL law: As our thesis deals with the moral and not the physical law, a more detailed exposition of the definition of the former, phrase for phrase, is necessary.

RULE OF ACTION: A rule in general is a guide or norm.

It implies determination of the aim of movement and its proper restraint, and is applied to—

a) Material bodies in their spatial movements;

b) Living bodies in their perfective movements, e.g., rules of hygiene, rules of right thinking, rules of right conduct.

MANDATORY IN FORM: A rule of action may be:

a) purely directive—advisory of certain procedure, but not obligatory of said procedure under penalty of moral evil doing, e.g., rules of etiquette; laws of logic.

b) necessitating—not merely advisory of a certain procedure, but binding thereto. This necessity may be—

i) Physical—necessitating by means of a physical determination, either internal or external.

ii) Moral—necessitating by means of previous knowledge in intellect and of pressure on will consequent upon this knowledge. This moral necessity and this alone is appropriate, as we have seen, to the faculty of free will, and is the necessity which is connoted by the words "mandatory in form."

ESTABLISHED: The law-maker must mentally conceive (act of reason) and freely determine upon (act of will) the course of action which is to be rendered obligatory upon the subjects of the law.

PROMULGATED: It is not sufficient for the law maker to establish the law by an internal act. The law must, by an official, external act, be so manifested that the subjects can be aware of its external existence.

"A rule or measure is imposed by being applied to those who are to be ruled and measured by it. Wherefore, in order that a law obtain the binding force which is proper to a law, it must needs be applied to the men who have to be ruled by it. Such application is made by its being notified to them by promulgation."—St. Thomas Aquinas, 1, 2, 90, 4.

PROMULGATION, therefore, is an authoritative proclamation of a law as binding, or, since we are speaking of a moral law, as obligatory.

For a better understanding of this essential prerequisite of a

law's obligatory force, viz., promulgation, it must be carefully noted that a "rule of action" may be regarded—

a) Actively—the ordination of a superior reason directing a subject reason.

b) Passively—a necessity put by the superior will on a subject will to follow the direction of the ordinating reason.

c) Significatively—in some external manifestation, e.g., verbally, written, etc.

COMPETENT AUTHORITY: Since a law is to bind subjects, only the person (whether a physical or moral unit) to whom the guidance of the subjects is entrusted has the power to make the law.

FOR THE COMMON GOOD: There are two notions herein contained:

1) For GOOD—a law to be a law, must intend the good, e.g., must propose to enable men to reach the perfection for which they are natively fitted, towards which they are natively impelled, and to which, within certain limits, they are obliged.

The proof of this lies in the fact that LAW is to direct man's conduct, which must always be posited for "good."

2) For the COMMON good—A law is made by the social head for the social good of the subjects.

THE THESIS MAY BE PROVED AS FOLLOWS:

Obligation arises from the moral law if the moral law exists.

But the moral law exists.

Therefore, obligation arises from the moral law.

Major: is evident; for obligation is one of the essential notes of a moral law as is clear from the definition of a moral law.

Minor: Reason discovers:

1) that certain actions are suitable for rational nature, lead man to his last end and are therefore good;

2) that certain other actions are unsuitable for rational nature, lead man away from his last end and are therefore bad;

3) that God has created all natures and ordained all things for

an end and established the order of right and wrong in accordance with His divine nature and wisdom;

4) that the Creator cannot be indifferent as to whether the order established by Him is carried out and observed, but God must will and does will that man should observe this order, should do good and avoid evil and thus obtain his last end.

But these acts of the divine will and intellect, so evident to human reason, have all the elements of a moral law and fulfill the definition of a moral law. *Therefore,* the moral law exists.

*Proof of last minor*s A moral law is defined as:

A rule of action, mandatory in form, established and promulgated by a competent authority, for the common good.

But the dictate of reason, "Do good and avoid evil," is:

1) a rule of action;

2) mandatory in form—For God commands us to do good and avoid evil. He does not merely counsel or advise us. Man cannot disobey this rule without incurring moral guilt;

3) established by competent authority—for God, the Creator of man and all things, is a competent authority and as the Creator and Author of the world it pertains to Him to direct man and all things to their proper ends. This He has done, as was shown in the above explanations;

4) promulgated—for God has promulgated His law by the light of reason as shown above;

5) for the common good—because it establishes order in the world and in man's actions and leads man to his last end. And certainly order is for the common good, just as disorder is against the common good.

Therefore, from the above explanations it is clear that the moral law exists and thus the minor of the original syllogism is proved.

B.—*Negative*—rejecting the answer of the other Schools of Thought.

1) Against Kant's Autonomy of Reason.

Kant's theory is based upon or involves the following absurdities:

a) Man, inasmuch as he is a rational and free being, is an end in himself, not only with regard to other created beings (this we ourselves maintain), but absolutely.

b) Man's reason is subject to no law except that which it itself, of its own power and authority, imposes upon it. This is to deny the essential relations spoken of in our Thesis X.

c) Man is, therefore, at once superior to himself as giving the law, and inferior to himself as a subject of the law. This, even if reason were autonomous, is to destroy the very idea of obligation.

d) God is "postulated," not because we can have any reliable theoretical (speculative) knowledge of such a being, but because we must "invent" some such being in order to furnish a moving power to the categorical imperatives of our reason.

According to Kant God is merely a Santa Claus needed to reward and punish men but He is not the Law Giver.

N.B.—On this theory and its disastrous consequences read Father Timothy Brosnahan, S.J., in *Catholic Educational Association Bulletin,* vol. VII, No. 1, pp. 240-257.

2) Against Spencer's Evolutionistic explanation.

According to Spencer, the sense of obligation is due to evolution under the pressure of consciousness of a twofold restraint:

a) internal restraint, i.e., foreseen utility or harmfulness of act;

b) external restraint, i.e., fear of punishment.

But this explanation is contrary to fact:

1) historically—since man did not come by evolution;

2) psychologically—because this is not the reason why a conscientious man observes law, i.e., fear of external penalties;

3) ethically—it does not explain the reason why obedience to such dictates is proper.

N.B.—(2) and (3) are wholly true independently of (1).

3) Against the School of "Independent Morality or Ethics."

The doctrine of this school either supposes the prior obligation of man to recognize and obey the authority of the State or it does not suppose such a prior obligation.

But this prior obligation supposed must itself be rationally explained by an appeal to some other binding force logically prior to the State's authority, and this is our explanation of the moral law; such a prior obligation not supposed, the whole force of the State's authority is reduced to mere physical power to enforce its will, and this is to "make right of might!"

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V. ATTRIBUTES OF LAW

THESIS XVIII

The natural law is unchangeable and as far as its primary and secondary principles are concerned cannot be invincibly unknown to men whose reason is developed.

INTRODUCTION

Having established the existence of a natural moral law directing man's volitional activity to its divinely-appointed last end, it is now in order to investigate the more important characteristics or properties of this law. This is done in the present and the three following theses, wherein are treated the natural moral law's—

1) Immutability and Knowability.

2) Inadequacy.

3) Sanction.

EXPOSITION

UNCHANGEABLE: i.e., cannot be changed. This means that the commands and prohibitions of the natural law always remain the same and retain their obligatory character. By this assertion, therefore, we deny that the natural law can undergo any of the following kinds of changes:

EXTRINSIC: a change which is made by the law giver;

a) by DEROGATION, i.e., by the cancellation of a part of the law and the retaining of the rest of it in force;

b) by ABROGATION, i.e., by the cancellation of the whole;

c) by DISPENSATION, i.e., by withdrawing from the obligation of the law a certain individual, the law meantime remaining in force.

INTRINSIC: a change either in whole (i.e., by abrogation), or in part (i.e., by derogation), which is, so to speak, brought about spontaneously because the prescriptions of the law have become useless or harmful.

PRINCIPLES: i.e., the practical judgments of reason which according to the foregoing thesis are the natural law looked at formally.

N.B.—It should be recalled again here that these judgments are called practical because they affirm not only an ideal of conduct, but an obligation of acting in accord with said ideal. Clearly, so far as the ideal of conduct is affirmed, they are of the same character as speculative judgments; as an affirmation of obligation, they have motive power on the will.

These practical truths of conduct are of three kinds. Hence:

PRIMARY: Those universal and ultimate truths which are so immediately evident in themselves that they need no demonstration. Instances of such are:

"Do good and avoid evil."
"Lead a life in accord with reason."

N.B.—Radically, the natural law consists of one supreme and universal principle. St. Thomas, starting from the premise that good is what primarily falls under the apprehension of the practical reason—that is, of reason acting as the dictator of conduct —and that, consequently, the supreme principle of moral action must have the good as its central idea, holds that the supreme principle from which all the other principles and precepts are derived is:

"Good is to be done and evil avoided."

This first principle may, of course, take other forms of expression as "observe order."

SECONDARY: Those truths of moral conduct which immediately and necessarily flow from the primary principles, or which by an easy and obvious inference, are deduced by the application of ultimate truths, to specific cases of right and wrong, so that all men possessing the use of sane reason can and necessarily must acquire knowledge of them. Such are, for instance:

"Adore God,"
"Honor your parents,"
"Practice honesty, temperance, truthfulness,"
"Do not steal."

TERTIARY: Those more remote conclusions derived from

the two preceding classes, which are reached only by more or less difficult processes of reasoning, or which we have to reason out step by step as we would a difficult proposition in geometry. Examples are:

"Duelling, lying, divorce, etc., are illicit and forbidden."

UNKNOWN: The second part of the thesis treats of the knowability of the primary and secondary principles of the natural law. In this connection, recall the definitions and divisions of Ignorance given in Thesis 5.

INVINCIBLY: The meaning of this part of the thesis is that not even humanly invincible ignorance of these principles can be had in the case of men whose

REASON IS DEVELOPED: Reason is as subject to limitation in regard to practical as to speculative truths. It may receive different degrees of development, and may be perverted. Moral education is as necessary for moral development of reason as is other kinds of education for the development of reason in other departments of thought.

The degree of development we have in mind in the thesis is that which is attained by the normal man through average individual effort and social influence. It is, therefore, that degree which excludes not only infants and the habitually insane, but also those who are clearly weak-minded and mentally blind as to what touches the proper conduct of a man's life.

N.B.—Such men do exist, as is clear, and their state can be attributed to:

a) defective or perverted moral education; or

b) morally bad customs introduced in most cases with knowledge that they are evil, by preceding generations and handed down as quite the natural thing;

c) a state of degeneracy from the normal moral view-point which state has been produced by the evil habits formed by preceding generations.

The further questions as to whether even this latter class of men can be ignorant of the *primary* principles and as to the possibility and degree of ignorance on the part of even the normally developed regarding the tertiary principles, will be mentioned briefly in a scholion of the present thesis.

PROOFS

Part I. THE NATURAL LAW IS UNCHANGEABLE INTRINSICALLY.

That law is unchangeable intrinsically whose prescriptions cannot in whole or in part become useless or harmful.

But the natural law is such.

Therefore the natural law is unchangeable intrinsically.

Major: clear from the definition of an intrinsic change.

Minor: Since the natural law prescribes what is in harmony with rational nature completely looked at, and proscribes what is out of harmony with rational nature, an intrinsic change would mean that an act in harmony with rational nature, had become useless or injurious to rational nature. But this is impossible since rational nature like all natures cannot be essentially changed and remain human nature and what is once in harmony with human nature must always be such. In other words good and evil are not subjective and variable and hence the laws commanding good and evil are invariable and unchangeable.

This thesis only refers to acts that are by their very nature good or bad, e.g., lying, murder, etc.

This thesis does not refer to the prescriptions of the positive law which varies according to circumstances, e.g., traffic regulations.

Part II. THE NATURAL LAW IS UNCHANGEABLE EXTRINSICALLY.

N.B.—It is evident that if the natural law be subject to any extrinsic change by abrogation, derogation, or dispensation, such a change could be introduced by no authority except that of God Himself. For since He is the Author of the natural law, He alone, if anyone, could change it. But in the thesis we claim that not even God himself can exercise such power.

PROOF

The natural law is unchangeable extrinsically if a change made by God would involve a contradiction in God's nature.

But an extrinsic change would involve a contradiction in God's nature.

Therefore the natural law is unchangeable extrinsically.

Major: evident.

Minor: The contradiction would consist precisely in this, that as the Author of Nature God wishes us to act and live in accordance with the nature He has given us. This wish of God constitutes the natural law. Now any arbitrary change in the natural law would mean that God did not wish us to live in accordance with our rational nature. Thus as the Author of nature God would wish us to live in accordance with our rational nature, and then by changing the natural law He would not wish us to live in accordance with our rational nature. This would be a contradiction.

Part III. THE PRIMARY AND SECONDARY PRECEPTS OF THE NATURAL LAW CANNOT BE INVINCIBLY UNKNOWN TO MEN WHOSE REASON IS DEVELOPED.

N.B.—Recall the definition of invincible ignorance.

PROOF

If these principles of the natural law could be unknown to such men then the law of God would not be sufficiently promulgated and would be useless.

But the law of God must be sufficiently promulgated and cannot be useless.

Therefore the primary and secondary precepts of the natural law cannot be invincibly unknown to men whose reason is developed.

Major: is clear because as a wise Law-giver God cannot do anything useless and not to promulgate His law as far as primary and secondary precepts are concerned, would argue a lack of wisdom in God. If men simply could not arrive at a knowledge of God's law it would be useless and precisely as regards those precepts which are absolutely necessary for the guidance of mankind.

Minor: is evident because God is all wise and cannot do anything which is useless and to establish a law and then fail to promulgate it so that men could not arrive at a knowledge of the law, would be useless.

N.B.—This argument is confirmed by the history of the human race, testifying in reality to the existence of our "Ethical Fact." For the history of peoples proves that the general principles of the natural law are easily and readily known to all. All peoples have recognized these principles. If it were possible for them to be totally unknown, some race of people would have been ignorant of them. They are recognized even by children. The natural law is, therefore, universally known.

SCHOLIA

I. While we prove in this thesis the same general conclusions with regard to the knowability of both the primary and secondary principles of the natural law, it seems that some difference must be admitted between these two classes of principles when the question of possibility and degree of ignorance and error is examined more in detail. The following conclusions seem to be evident consequences of the truths established in this thesis:

Primary principles of conduct cannot be unknown, nor is the intellect subject to error in their regard.

Secondary principles may be obscured in their particular application by defective or perverted moral education, or by apparent conflict between them.

Tertiary principles may themselves be unknown in various degrees, and, by particular persons, even in a developed moral environment.

In other words, neither the general broad principles of morality themselves nor the proximate and immediate conclusions from them can ever be lost to consciousness. *They* belong *naturally* to the human mind. *Not* naturally in the sense that they are innate or inborn in man, but in the sense that without any reasoning at all or by a very easy and obvious inference the mind comes quickly and really to acquire them, and cannot help doing so. They are, therefore, more or less evident in themselves and hold the same place in morals that primary truths, the so-called axioms, hold in the speculative sciences. Though the more remote conclusions of the natural law, *the tertiary principles,* are quite as true as the others, they are not so evident, and consequently it is possible for minds to lose the consciousness of them or even never to come to a knowledge of them. They are obtained only after

much reasoning, sometimes only after some experience, and these truths are neither self-evident nor known to all. They are evident only to the wise.

II. As the difficulties brought against the doctrine established in this thesis are neither few nor always easy to answer, the following principles are mentioned as likely aids in handling such objections:

1) Distinction must be made between—

AFFIRMATIVE LAW, which is a command making the performance of an action obligatory—and

NEGATIVE LAW, which is a prohibition making the omission of an action obligatory.

With regard to this division of the prescriptions of Natural Law, the principle is that *negative* laws oblige all persons, always, and at all times; that is to say, there is no occasion when the actual fulfillment of the law, which is one of abstention, ceases. Such are, for instance, the precepts of the Natural Law: "Do not steal;" "Do not commit adultery." *Affirmative* laws also oblige always, in the sense that they are never revoked and that they may not be violated at any time; but they do not oblige in the sense that they must be put into execution at every moment as must the negative laws of abstention. Thus by a negative precept we must abstain from theft continually; but the affirmative precept, which ordains that external honor be shown to parents, does not oblige us to be constantly performing external actions that indicate respect. Such actions are to be performed when the occasion calls for them. However, affirmative precepts do bind at every moment *in the sense in which they may be construed as negative;* thus, there is no moment when we may dishonor our parents.

2) Distinction must be made between the law which is unchangeable and the matter of the law which may vary.

3) Difficulties from *ethnography* may be solved:

a) by showing that facts were observed in the light of preconceived theories, or by disproving through later research the narratives of earlier travelers;

b) by showing that barbarian people have erred through defective or perverted moral education with regard to remote and

difficult inferences from primary and secondary principles, or in the application of the latter to particular cases;

c) by not reading into their actions the view-point of civilized people.

COROLLARIES

I. Natural Law INBORN within US.

Because of these properties of Natural Law established in this thesis, it is said to be inborn in all men. By this we do not mean to assert that a man is born with a certain set of principles fully conceived and developed in his intellect, but we do maintain that there are certain propositions of elemental morality which are inevitably accepted as true as soon as the meaning of said propositions is grasped. We further imply that if a man develops normally in the normally-minded state of society, he will come to more developed canons of morality.

If a person does not admit these primary propositions, he is abnormal morally, just as a person is abnormal mentally if he does not admit that "a straight line is the shortest distance between two points," or that "two and two make four." Indeed, the "primary dictates" of the natural law are in the moral order, i.e., in the realm of man's free activity, what the primary speculative truths are in their own order.

II. Supremacy and Regulative Force of Natural Law.

"This law of nature, being coeval with mankind, and dictated by God Himself, is, of course, superior in obligation to any other. It is binding over all the globe, in all countries, and at all times; no human laws are of any validity if contrary to this; and such of them as are valid derive all their force and all their authority, mediately or immediately from this original."—Blackstone, Introd. Sec. 2, No. 41.

"Upon these two foundations, the law of nature and the law of revelation, depend all human laws; that is to say, no human laws should be suffered to contradict these."—*Ibidem,* No. 42.

III. Some things are not absolutely forbidden by the natural law but only conditionally. Thus polygamy and divorce without God's permission are wrong, with God's permission they are not wrong. Thus polygamy and divorce as practiced in the Old Testament were practiced with God's permission and were not wrong.

IV. Taking the life of another unjustly or taking the goods of another unjustly are murder and theft and are against the natural law, but taking the life of another or taking the goods of another with God's permission are not unjust acts and are not, therefore, murder and theft.

V. Suicide is taking one's own life by one's own authority. When we sacrifice our life with God's permission it is not suicide.

VI. Many people have practiced wrong deeds, as killing the aged, etc. But in these cases they were not ignorant of what was right and wrong but falsely reasoned that these acts were right.

VII. Many abnormal people do wrong and do not seem to have any knowledge of natural law. But these people are abnormal and our thesis only holds for normal people.

VIII. Some of the more remote conclusions from the natural law, that is, those that are known only after an intricate process of reasoning, can and are unknown. Thus in our country many people cannot see that divorce is wrong and bad. However, the knowledge of these precepts while very advantageous for man and society, is not absolutely necessary in as much as man can get along without such knowledge for a long time but in many things like this experience ought to manifest the evil and it does.

DIFFICULTIES

Obj. 1. It is not repugnant to Divine Wisdom that some men be deprived of the use of reason. Therefore, neither is it repugnant to Divine Wisdom that some men be ignorant of the natural law.

Reply. Conc. antec. Dist. concl.: It is not repugnant that some men be ignorant of the natural law on account of secondary causes or because reason is not sufficiently developed as in the case of infants, conc. concl.; be ignorant on account of deficient promulgation on the part of the legislator, neg. concl.

Obj. 2. Man can be ignorant of particular laws. Therefore, he can also be ignorant of the more general principles of the natural law.

Reply. Conced. antec. Neg. concl. and parity: The necessity of knowing the more general principles of the natural law is much greater than that of knowing the particular applications of those more general principles, because these latter man can himself acquire by the exercise of his own activity. Moreover, the

more general principles are absolutely necessary for the maintenance of the essential moral order, while the particular applications are not so necessary and essential.

Obj. 3. Concerning certain precepts of the natural law (i.e., theft, suicide, killing of one's parents, etc.) many people, whole tribes even, have erred. Therefore, the natural law is not known to all men.

Reply. Dist. antec.: . . . . Have erred concerning these precepts themselves, neg. antec.; concerning the application of these precepts to more difficult circumstances, conc. antec. It is true that whole tribes have erred in matters pertaining to the natural law; but they have erred through defective or perverted education with regard to remote and difficult inferences from primary and secondary principles, or in the application of the latter to particular cases. Thus all men rightly judge that to honor one's parents is a precept of the natural law. Of this general precept no man, possessing the use of reason, can possibly be ignorant. But through perverted education some barbarian people have thought that they honored their parents by killing them in their old age.

Obj. 4. A law depends on the will of the legislator. Therefore, God can change the natural law or dispense from its observance.

Reply. Dist. antec.: A positive law depends on the will of the law-giver, conc. antec.; the natural law, neg. antec. The natural law depends on the will of God in so far as God was most free to create or not to create man. But supposing the decree of creation, He must necessarily will that man should regulate his conduct according to the Eternal Law by observing in his conduct the law of reason. The Almighty, then, cannot be conceived as willing this and at the same time willing the contradictory, that man should be set free from the law entirely through its abrogation, or partially through dispensation from it.

REFERENCES

Knowableness of Natural Law—Catholic Encyclopedia IX-78

THESIS XIX

Positive law, though necessary to supplement natural law, has its power of imposing obligation only from the natural law.

INTRODUCTION

As all the terms of this proposition have already been explained in some one of the foregoing theses, no further exposition is here necessary. We need only prove the two parts of the thesis. However, since the positive laws which we are most familiar with and which are most commonly enacted are HUMAN positive laws, proceeding as we know, from the authority of the State, the following paragraphs will not be without value in further illustrating the importance of the propositions we are here about to prove.

For the proper direction of the community, and the securing of the common good of that community, the natural law has to be supplemented by certain rules or norms of action in which special account is taken of the needs of particular communities. Such rules or norms of action are known as positive human laws, because they must be enacted and promulgated by human rulers. These laws are necessary for two reasons: first, in order to enforce the necessary conclusions of the natural law—conclusions which many men might either not be aware of or might be inclined to disregard; secondly, in order to determine certain things which the natural law leaves undertermined and the determination of which depends on particular circumstances.

"To give an illustration, we may say that we are bound by the natural law to support our lawful government. Now, though there may be a best way of doing this, this best way is not made known, by reason, to every one, with the same clearness as is the general principle or precept, 'Do good and avoid evil.' So, in the vast and complicated machinery of a city or nation, for instance, if each individual were to undertake, with his very limited knowledge, to determine the best way, we should have almost as many methods as individuals, and not one in a thousand would be of any value. The confusion would be indescribable; and the conduct of the civil society would be an impossibility. It being necessary, therefore, to have something determined and uniform, this uniform method being once fixed upon, must, for the very existence of the society, be imposed as a positive law by the person or persons in whom the authority resides." —Poland, Fundamental Ethics—Art. 8, No. 229.

Positive human law, then, has for its special subject-matter those duties pertaining to the common good which are not expressly and evidently dictated by nature to all minds as are the universal first principles of the natural law, or the first self-evident inferences or judgments of right Reason. It may not ordain anything contrary to the natural law, but it may and must determine with more precision the bearing of the natural law, and, for good reasons, supplement its conclusions.

As a consequence of this description of Positive law and its contrast with Natural law, the following exposition of the differences between the two will be clear:

NATURAL LAW.

a) Obligation arises from God's will, hypothetically NECESSARY.

b) Matter is only what is INTRINSICALLY GOOD or BAD.

c) Promulgation is by the very NATURE of things.

d) INSEPARABLE from human nature, UNIVERSAL and INVARIABLE.

e) Essentially DIVINE.

POSITIVE LAW.

a) Obligation arises from ruler's will.

b) Matter is also and chiefly what is intrinsically INDIFFERENT.

c) Promulgation is by some CONVENTIONAL sign.

d) SEPARABLE from human nature, LOCAL and VARIABLE.

e) Either DIVINE or HUMAN.

PROOFS

Part I. POSITIVE LAW IS NECESSARY TO SUPPLEMENT THE NATURAL LAW.

Positive law is necessary if the natural law is not sufficient for man.

But the natural law is not sufficient for man.

Therefore positive law is necessary for man.

Major: is evident.

Minor: Clear from the following considerations:

a) Because the dictates of right reason may be obscured at times and so must be clearly formulated that the unlearned may be certain of their obligations. Thus it is a prescript of the natural law that crime must be punished and society must be safeguarded. But just what must be done to safeguard society and just how crime must be punished, postulates the entire body of criminal law.

That Right order must be observed is a dictate of the natural law but just what constitutes right order in particular and concrete cases, is not clear and must be made clear by reasoning from the natural law and thus arises our whole system of civil law.

b) Because necessary deductions must be drawn from the known principles of the natural law that men individually and collectively may make that progress which is in keeping with their nature. These deductions must then be formulated into laws by those in authority.

c) Because the changing conditions of a complex social life must be met and the new social interaction of men must be harmoniously readjusted by new laws, which though ultimately dependent on the natural law for their authority, would never by any process of abstract thought be deduced therefrom.

N.B.—In the light of this argument, it is clear that human positive laws may be divided with respect to the natural law into two kinds.

a) DECLARATIVE POSITIVE LAW—a law which prescribes or prohibits that which is requisite for the conduct of mankind, and which is deduced by a necessary illation from the fundamental principles of the natural law.

b) DETERMINATIVE POSITIVE LAW—a law which prescribes or prohibits that which would not be inferred in such a way from the natural law, e.g., the law of driving on right hand side of the street.

Part II. THE POSITIVE LAW HAS ITS POWER OF IMPOSING OBLIGATION ONLY FROM THE NATURAL LAW.

Positive law has its power of imposing obligation from the principle, "Just laws of superiors are to be obeyed"—

But this principle is a principle of the Natural Law.

Therefore positive law has its power of imposing obligation from the natural law.

Major: is evident, for on what other grounds are we obliged to obey the edicts of superiors.

Minor: is clear from reason, for reason tells us that man is created by God and is by nature social and destined to live in the society of other men. But society postulates authority for without authority there would be no order. Authority postulates obedience to legitimate authority. Therefore just laws of superiors are to be obeyed.

REFERENCES

Foundation of Civil Law—Catholic Encyclopedia IX-79

THESIS XX

The moral obligation of Civil Law must be admitted.

EXPOSITION

"The State performs its functions by means of law. Through the direct or indirect authorization of law taxes are collected, public money is expended, public services, such as, the post office, the public schools, the department of justice, the fire department, the police department, are administered, and the various regulatory measures affecting individuals and associations are ordained and enforced. It is law that warrants and supports every civil act performed by any official in any of the three great departments of government, the executive, the legislative and the judiciary. When a public official proceeds without the authorization of law or exceeds the scope of the law, his action has no civil validity.

"The authority of the State to make laws is derived from God. He has endowed men with such qualities and needs that they cannot live reasonable lives without the State. Therefore, He wishes the State to exist and to function in such a way as to attain this end, to promote man's temporal welfare. It does so by means of law. Hence civil law is genuine moral law, not merely a kind of legal or physical coercion. It binds in conscience. Herein it differs from the rules of a social club. The latter do not produce moral obligation. Even though they should be disregarded to such an extent as to destroy the club, its members would suffer no vital injury. On the other hand, men are deprived of a necessary means to human life and development when there is general disobedience of the laws of the State. The moral law which binds men to live reasonable lives, obliges them to adopt one of the essential means to this end, that is, to maintain the State and to obey its laws.

"Such is the rational basis of the doctrine laid down in Holy Scripture, and taught without variation by the Catholic Church. According to this doctrine, the civil law binds in conscience, as such; not because it includes, nor only in so far as it includes, natural, or supernatural, or ecclesiastical law.

"No declaration of any church authority can be cited in favor of the contrary opinion. A few individual writers have held it but the overwhelming majority of theologians teach that the civil law is morally binding on its own account because of the moral authority possessed by the State.

"Of course, all ethically valid civil laws must be in harmony with the moral law of nature. A statute which is contrary to a precept of the natural law, has no moral force, however solemnly it may have been enacted, or formidably sanctioned, or vigorously enforced. Such an enactment is not law at all, but, as St. Thomas calls it, 'a species of violence.' "*

PROOF

The moral law of nature obliges men to lead reasonable lives.

But one of the essential means to this end is to maintain the State and obey its laws.

Therefore the moral law of nature obliges us to obey the civil law.

Major: is clear.

Minor: Men are deprived of a necessary means of human life and development when there is general disobedience to the laws of the State.

*The State and the Church, page 244; by Ryan and Millar.

THESIS XXI

The Civil Law is based on the Natural Law.

EXPOSITION

"Indeed, all civil law may properly be regarded as either a reaffirmation of the natural law, or as an application of its precepts, principles or derived conclusions. Of the former kind are the statutes forbidding theft, assault, and adultery. To the latter class belong the laws which determine individual property rights and prescribe the imposition and collection of taxes, and ordinances for the regulation of traffic on streets and roads. The natural law dictates that men should acquire and use external goods with a just regard to the rights of their fellows, but it does not inform them just how this requirement is to be observed and applied in particular cases. In virtue of the natural law, men are obliged to maintain the government, but there is no specific precept requiring this end to be attained through a certain form of taxation. We are enjoined by the natural law to refrain from inflicting physical injury upon the neighbor in our common use of the public streets, as well as in other relations, but we are not told whether the speed limit should be ten miles an hour or twenty. In all such cases the general provisions and precepts of the natural law stand in need of specific and precise determination by the positive law. Civil statutes for this purpose derive their immediate moral authority and validity from the State itself. Their binding force cannot come directly from the natural law, since the latter is so general in its provisions that other specific determinations, for example, other property regulations and traffic regulations, might be equally in harmony with these general provisions. Natural law cannot oblige men to comply with its general provisions in a particular way, when another way would be equally efficacious. The function of prescribing one method rather than another belongs to the State. Its right to make such a prescription flows from the fact that it is the authorized and the only competent agency to determine and enforce necessary and uniform methods of carrying into effect the general principles of the natural law in all such matters. The obligation of the citizens to

observe these methods and regulations is based ultimately on the natural law, but its immediate and formal basis is the State.

"The objection might be raised that all the foregoing instances and the reasoning that they are intended to illustrate, refer only to civil ordinances which are *necessary*. The moral obligation to obey such statutes is as clear as the obligation to maintain an effective political organization. In both cases we can trace the compelling and obligatory influence of the natural law. Its precepts require men to deal justly and charitably with one another, and to make and obey whatever civil regulations are necessary to attain this end. But the case seems to be different with those civil statutes which prescribe and administer things that are merely *useful*. Government regulation of street traffic is necessary, but government ownership of railroads is not necessary. Whence comes the moral obligation upon the citizens to obey the law which forbids them to own a railroad?

"The answer is that the obligation is derived ultimately from the natural law, precisely as in the case of the traffic ordinance. Just as the State has the authority to prescribe one maximum rate of speed rather than another, so it has the right to determine that goods and passengers shall be carried by the government rather than by private corporations. In both cases the end is the common welfare. In both cases the State must adopt some means to attain this end. In each case more than one means would be adequate. Some speed limit must be prescribed, but it need not be fifteen miles per hour rather than twenty. As compared with the latter, the former is merely useful, and *vice versa*. The case of the railroads is exactly parallel. They are necessary for the common welfare. They can attain this end substantially under either private or public ownership. The issue between the two methods is merely one of utility, and the State is not clearly obliged to choose one rather than the other. But it must authorize some one of the two. When it adopts government ownership, its action is morally binding on the citizens for the same reason that makes its traffic regulations morally binding. That is, it is determining a method of promoting the common good, in virtue of its authority as the only competent determinant of such matters. The obligation of the citizens to accept the determination actually made, i.e., government ownership, comes immediately from the authority of the State, but ultimately from that prin-

ciple of the natural law which dictates that men should support all the legitimate activities of the State.

"Individual citizens may think, and their opinion may be correct, that government ownership of railroads is less useful, less conducive to the common good, than private ownership. Nevertheless, they are morally obliged to accept the former for the sake of the same common good. Their refusal to do so would cause greater injury to the community than the continuation of and their acquiesence in the duly established arrangement. It would imply that a group of individuals may at any time reject any civil ordinance with which they do not agree."*

PROOF

"The sum of the matter is that every law enacted by a legitimate government, and not contrary to any provision of the natural law, whether its prescriptions are evidently necessary or merely useful, is in some degree morally binding on the citizens. The fundamental reason is the necessity, according to the divine plan and the natural law, of an effectively functioning State for human welfare.

ARE CIVIL LAWS OF GRAVE OBLIGATION?

"It has just been said that every genuine civil enactment is morally binding 'in some degree.' This phrase brings up for consideration certain modifications or qualifications, of the general principle. It suggests these questions: Do civil laws bind under pain of mortal sin? Does their obligatory character depend upon the will of the legislator? Are some civil statutes purely penal? Does the validity of civil laws depend upon their acceptance by the people?

"To the first of these questions the answer of the great majority of Catholic writers is in the affirmative. The reason is tersely stated by Suarez: Inasmuch as civil law binds in conscience, it necessarily produces a degree of obligation proportionate to its subject matter, if the latter is of grave importance, the obligation of obeying the law will likewise be grave. Generally speaking,

*The State and Church, pp. 244-259, by Ryan and Millar.

the person who violates a civil statute which prescribes some action of great importance for the commonwealth, is guilty of mortal sin. This proposition can be logically rejected only on the assumption that no civil law can be of great importance.

"Such is the obligatory force of a momentous law, in itself.

DOES THE INTENTION OF THE LEGISLATOR AFFECT THE OBLIGATION OF CIVIL LAW?

"IT IS THE UNANIMOUS, OR PRACTICALLY UNANIMOUS, TEACHING OF CATHOLIC AUTHORITIES THAT THE INTENTION OF CREATING A MORAL OBLIGATION IS OF THE ESSENCE OF LAW, SO THAT, A PRESCRIPTION BY LEGISLATORS WHO POSITIVELY AND EXPLICITY INTENDED THAT IT SHOULD NOT BIND IN CONSCIENCE, WOULD NOT BE A TRUE LAW. IT WOULD BE MERELY A DIRECTION, A COUNSEL, OR AN EXPRESSION OF LEGISLATIVE PREFERENCE. IF THE *EXISTENCE* OF MORAL OBLIGATION DEPENDS UPON THE WILL OF THE LEGISLATOR, THE SAME DEPENDENCE MUST LOGICALLY BE PREDICATED OF THE *DEGREE* OF OBLIGATION. Hence, the general opinion among Catholic moral theologians is that the legislator has the authority to render grave laws only slightly obligatory. That is, a law which of itself would bind under pain of mortal sin, brings upon the transgressor merely venial guilt when this is the desire and intention of the legislator.

"In order that a civil law should become obligatory to a grave degree two conditions are, therefore, necessary. First, that the subject matter be of great importance; second, that the legislator should intend the law to have this effect in the forum of conscience. Either of these conditions lacking, the law binds only under pain of venial sin. If the subject matter is of slight importance the legislator cannot perform the inherently contradictory feat of making the obligation grave; if the legislator does not wish a gravely important law to bind under pain of mortal sin it will not be obligatory in this degree.

"The doctrine that the moral obligation of civil law depends to some extent upon the intention of the legislator is sometimes made the basis of an extraordinary view of modern civil legislation. It

is nothing less than the conclusion that the ordinances of practically all modern legislative bodies have no binding force in conscience. Laws do not bind in conscience unless the legislator intends them so to bind; now contemporary lawmakers cannot have such an intention since they do not believe in the existence of genuine moral obligation. Such is the argument. Tanquerey rejects it on the ground that whatever may be their general and theoretical attitude toward the reality of moral obligation, modern legislators do desire their enactments to have the utmost force and authority; hence they implicitly intend them to be morally binding. Bouquillon takes a similar position, declaring that the legislator need not expressly intend to impose an obligation in conscience, that it is sufficient for him to have the intention of issuing a genuine command. Lehmkuhl holds the same view as Tanquerey and Bouquillon, and points out that if explicit intention to bind the conscience were indispensable, the laws enacted by Pagan rulers would be without obligatory force which is surely contrary to the teaching of Holy Scripture. Suraez declares that the design of the legislator to make a true law suffices, and that the formal intention to bind in conscience is not necessary. He notes that legislators, particularly unbelievers, rarely advert to the question of moral obligation. Indeed, it seems to be the general opinion of the moral theologians that an implicit intention suffices, that is, the intention that the enactment should have all the moral authority which attaches to a genuine law.

ARE SOME CIVIL STATUTES PURELY PENAL LAWS?

"The third question raised above concerns those laws which jurists and theologians call "purely penal," or "merely penal," or 'distinctive.' They are defined as laws which oblige the citizen either to obey them or to accept the penalty appointed for their violations. The obligation is not absolute, but conditional. If the citizen is ready to submit to the penalty he can licitly disobey the provisions of the law. Generally speaking, however, he is not bound in conscience to undergo the penalty until it has been formally imposed by the court. He is not obliged to give himself up, nor to forego his civil right of legal defence.

"The great majority of moral theologians hold that the legislator has authority to enact laws of this sort. In the first place, it is contended that the object of the law and the common good may sometimes be more effectively promoted by a statute which

leaves the citizen free to disobey the law and become morally liable to the penalty, than by one which gives no such choice but entails moral guilt every time it is violated. Such are laws which men transgress with uncommon frequency, but whose object can be adequately attained through the infliction of penalties upon their violators. A purely penal law is, in some sense, a concession to human weakness. The second reason given by the theologians to support the proposition under consideration is the legislator's power over the obligatory character of his enactments. Just as he can determine that a gravely important law shall bind only under pain of venial sin so he can make the obligation of certain laws disjunctive. That is, he may attach the obligation either to the observance of the law or to the acceptance of the penalty, so that the citizen has the option of being bound to the latter instead of the former.

"It is to be observed that a purely penal law must carry some obligation. The legislator cannot enact a statute which would bind the citizen neither to obey its provisions nor to accept its penalties. Such an enactment would not be a true law, inasmuch as it would lack an essential element, namely, moral binding force. Hence the legislator must have at least the implicit intention of morally obliging the citizen to accept the penalty in case of violation.

"It seems, however, that the practical obligation of a purely penal law is attenuated almost to the vanishing point. If the violator of the law is not obliged to make known his transgression, nor to waive his legal right of defence, his duty of "accepting the penalty" is merely that of submitting to the sentence of the court. That is, he must not break jail nor evade payment of a fine. When the offender evades apprehension, he escapes all moral obligation; when he successfully contests prosecution, he likewise, remains free from moral accountability; when he is convicted, his moral obligation is merely that of omitting actions from which, in most cases, he is physically restrained by the sheriff or the policeman. In a word, the moral obligation of a purely penal law is next to nothing, its moral sanction, i.e., the effectiveness of the moral element in preventing violations, is practically nothing.

"These facts create a strong presumption that the field of purely penal law is extremely limited. The objective reason why civil law carries moral obligation is found ultimately in human

welfare. If the law be deprived, or all but deprived, of its moral element, its efficacy for the promotion of human welfare is greatly even fatally, weakened. Nevertheless, the assertion is sometimes made that in our day all civil laws are merely penal.

"As commonly given by theologians, there are three tests by which a civil law may be adjudged purely penal. First, the declaration of the legislator; second, the attitude of popular tradition and custom; third, the enactment of a penalty so severe that it is out of all proportion to the law's importance. However, the second and third of these criteria are not valid universally; for the custom may be socially injurious, and the heavy penalty may be designed to prevent unusual frequency of violation, not to indicate that the law is to be regarded as purely penal.

"Bouquillon adds another restriction which seems to be fundamental. It is that no law can be reasonably regarded as purely penal unless the burden or penalty attached to its violation is *specifically* adapted to attain the end of the law. The penalty must be such as to compensate for the failure of the law; it may not be merely coercive. Thus, heavy fines may offset the loss to the public treasury through the non-observance of the laws. In such a case, the law might fairly be interpreted as purely penal. But fines and imprisonment would not adequately achieve the end of a traffic ordinance, i.e., safeguarding life and property. It is not easy to controvert this argument.

DOES THE VALIDITY OF CIVIL LAWS DEPEND UPON POPULAR ACCEPTANCE?

"The final question concerning the degree of obligation attaching to civil laws, is whether their binding force depends upon popular acceptance or ratification. At first sight, an affirmative answer would seem to contradict the general doctrine of the foregoing pages, that civil legislation binds in conscience. However, there is no necessary contradiction; for civil ordinances might conceivably not attain the complete character of laws until they had been ratified by the people. In that supposition, the people would constitute an essential part of the legislative authority. The obligation of individual citizens to obey a statute would begin when the latter had been formally accepted by the people as a whole. Only then would "the will of the legislator" have become fully manifest and formally effective.

"Generally and *per se*, popular acceptance is not necessary for the validity of a civil law. Such is the unanimous teaching of the moral theologians. As stated by Suarez, the following are the main reasons which support this principle. In every State that is not a pure democracy, the people have transferred supreme political power to the rulers and legislators, and have not retained the right of accepting or rejecting legislation. Secondly, the authority to legislate would be plainly futile if the people were morally free to obey or not to obey. Thirdly, usage shows that laws are held to be binding as soon as they have been regularly enacted and promulgated. In short, civil laws are obligatory without popular ratification, on account of the original grant of power to the rulers, on account of universal custom, and because this is necessary for the common good. It is not possible to overthrow this argument.

"The general principle is subject, however ,to certain qualifications and exceptions. Suarez notes that popular acceptance of the law is essential to its binding force when the people have attached that condition to the grant of legislative power. In the kingdom of Aragonia (a part of Medieval and benighted Spain, be it noted!) he says, the laws of the monarch do not become binding until they are ratified in public assemblies. On the same principle, certain enactments of legislative bodies in Switzerland, the United States, and New Zealand obtain the full force of law only when they have been approved by a popular referendum. Even in these States the great majority of laws are recognized as valid as soon as they have been promulgated by the supreme legislative authority.

"In the second place, Suarez points out that when a law is very frequently disregarded by the greater part of the people, the legislator may, through tacit consent, permit the law to be deprived of binding force. However, this is not an instance of direct popular authority over the law, but rather of revocation by the legislator. His tacit repeal of the law is indeed, occasioned by popular refusal to accept. In the third place the law does not bind if it is not just, for an unjust law is no law at all. Fourthly, a law which is unreasonably burdensome to the people may sometimes lack obligatory force—at least when it is so harsh that it is tantamount to an unjust enactment. Finally, when the majority of the people disregard the law to such an extent and in such a way

that its observance by a minority becomes detrimental to the State, it ceases to bind the individual citizen because then it is against the common good.

"While the non-acceptance of a law by the people does not nullify the law—still it may be a sign that the law has some radical defect which does nullify it. Thus it may be a sign that it is sinful, unjust or morally impossible.

"To sum up: The Catholic Church, as well as natural reason, teaches that civil law binds in conscience. The ultimate basis of this obligation is the natural law; the immediate basis is the authority of the State. Civil laws of grave importance are gravely obligatory, unless the legislator formally intends their binding force to be slight. The general teaching of moral theologians is that a law is not binding without at least the implicit intention of the legislator. Some civil laws may be purely penal, but their number is probably small. In general, civil laws are binding without popular ratification."*

REFERENCE

Penal Laws—Catholic Encyclopedia XI-611

*The State and Church, pp. 244-259, by Ryan and Millar.

THESIS XXII

Positive law, to impose obligation, must proceed from legitimate authority and must be just, possible and properly promulgated.

INTRODUCTION

The sense of this thesis is that any so-called law, which does not proceed from legitimate authority and is not both just and possible, is not capable of imposing a real obligation on the wills of its subjects, so that they are bound "in conscience," as we shall afterwards use this expression (Cf. Thesis 24), to obey its prescriptions.

"It is to be remarked, however, that there are cases where the human law, having no binding power in itself, must, nevertheless, be obeyed for reasons springing from the natural law. For, the thing commanded being in itself an indifferent matter, that is, neither obligatory nor prohibited by reason of its very nature, the circumstances may be such that to avoid positive evil, as public scandal, great civil disturbance, or even bloodshed, etc., we may be bound by the natural law to obey. And, in general, whenever there is not moral certainty that the law is unjust, it must be obeyed, because the law has the presumption in its favor; and there may readily be hidden reasons which are not apt to be, and need not be, open to each individual subject."—Poland *Fundamental Ethics,* Art. 8, No. 235.

EXPOSITION

LEGITIMATE AUTHORITY: that is the law-maker must have jurisdiction over this subject in the matter of this particular law.

JUST: that is—

1) the law must not prescribe what is morally bad and must not invade the natural rights of its subjects. (Cf. Thesis 26).

2) the law's purpose must be the community's well-being, i.e., the common good.

POSSIBLE: that is—

1) physically, i.e., the subjects of the law must have the required ability to observe it;

2) morally, i.e., the difficulties attending the observance of the law must not benumb an ordinary subject's efforts.

N.B.—This possibility must be ascertained by an investigation of man's nature in itself, or racial habits, and of local and transitory conditions.

PROPERLY PROMULGATED: that is so brought to the knowledge of the subjects that its existence and meaning and obligatory character are not a matter of doubt, but are known with certainty.

1) The manner of promulgation depends on the will of the law-maker. In practice, it is regulated by the special customs of different nations. But the necessary end of promulgating laws is accomplished when their existence is known or, humanly speaking, can be known by the people.

2) As soon as a law has been properly promulgated, it is binding upon those for whom it is intended, no matter whether they approve it or not, because the law-making power is derived, as was equivalently proved in the last thesis, and as will be explicitly proved in the Ethics of Civil Society, from God, the Author of the Natural Law. Only when a law is indubitably unjust or impossible may it be rejected by those for whom it was made. Hence, in a democratic country the people are in duty bound to obey the just laws passed by their representatives.

3) Although invincible ignorance of the existence of a law excuses transgressors from guilt in the court of conscience, such transgressors are sometimes punished in civil tribunals as though they were culpable. The reason of this is, that, otherwise, the conduct of civil society would be impossible. The civil authority having taken all the means necessary to make the law known to the citizens, cannot take into account every subsequent plea of ignorance; since all transgressors might claim invincible ignorance, and there would be no possibility of enforcing the law.

PROOFS

Part I. TO IMPOSE OBLIGATION POSITIVE LAW MUST PROCEED FROM LEGITIMATE AUTHORITY.

To impose obligation, positive law must be capable of restricting man's free will.

But nothing is capable of restricting man's free will that does not proceed from a source that has authority over that free will, i.e., from legitimate authority. *Therefore.*

Major: Evident from notion of obligation.

Minor: Evident because only a superior can bind another or subject another to his will.

Part II. TO IMPOSE OBLIGATION, POSITIVE LAW MUST BE JUST.

To impose obligation, positive law must be based upon the natural law.

But what is based on the natural law must be just.

Therefore.

Major: The conclusion of preceding Thesis 19.*

Minor: Evident.

Part III. TO IMPOSE OBLIGATION, POSITIVE LAW MUST BE POSSIBLE OF OBSERVANCE.

To impose obligation, positive law must make an action or omission of action necessary.

But an action or omission which is not possible cannot be made necessary. *Therefore.*

Major: Evident from notion of obligation.

Minor: Evident.

N.B.—It is equally clear that even in the case of the NATURAL LAW the thing commanded or forbidden must be such that it is capable of being done or omitted—i.e. physically possible.

Part IV. TO IMPOSE OBLIGATION, POSITIVE LAW MUST BE PROPERLY PROMULGATED.

To impose obligation, positive law must be applied to its subjects.

But this application is made through proper promulgation. *Therefore.*

Major: Evident from notion of law and obligation.

*A law not based on the natural law has no binding power.

Minor: Evident from notion of promulgation of law.

N.B.—This requisite for law's obligation is also equally clear of the natural law, as has been seen in a previous thesis.

SCHOLIA

I. Every positive law which has the qualities demanded as essential in this thesis is in reality nothing more or less than as St. Thomas expressed it, an application of the will of God to some special conditions or circumstances of human life. Such a law, therefore, binds man not only externally so to speak, i.e., under pain of punishment (Cf. next thesis on SANCTION), but also and chiefly internally or, as we say, in conscience.

On the other hand, laws which lack any of these essential qualities and which are called in consequence unjust laws, do not bind in conscience because they are, as St. Thomas says, "acts of violence rather than laws." With regard to these the following principles embody helpful rules for practical guidance:

"a) No one is obliged to obey a precept which it is morally impossible for him to fulfill. However, when the whole of an obligation cannot be fulfilled, and the matter is susceptible of division, we are not excused from fulfilling a part.

"b) A law which runs counter to the moral law of nature not only does not oblige in conscience, but must be resisted passively.

"c) An indubitably unjust law does not bind. If however, a law is just in its object, and unjust only in its origin or purpose, it may be obeyed, provided obedience does not involve the violation of some other moral duty. Obedience may even be a strict duty, namely, when some higher moral good would be jeopardized by disobedience, as is the case of public scandal or revolt, provided always that no just law is violated. In the words of the Angelic Doctor, 'Unjust laws are not binding in the court of conscience, except perhaps to avoid scandal or turmoil, for which cause a man ought to abate something of his right. . . .'

"d) Laws which imperil higher rights or interests may be resisted by all legal means, such as remonstrances, appeals, petitions, agitation in the public press. To employ illegal means is tantamount to sedition. No matter what the provocation, revolution against a legitimate government is forbidden, because revolution, by its very concept, is an attack upon actually existing and divinely sanctioned rights."—Koch-Preuss' Handbook of Moral Theology, Vol. I., p. 166 ff.

II. As to the degree and extent of the obligation of a law, the same author gives us the following:

"Unlike divine laws, human laws never bind absolutely. The obligation they impose depends in each case primarily on the will of the lawgiver and secondarily on the matter involved.

"a) When the matter is light and trivial, i.e., when the precept is of no importance for the common good, either in itself or by reason of attendant circumstances, the obligation is slight. When, on the other hand, the matter

is grave, i.e., when the law or its object is in itself important or rendered so by circumstances, the resulting obligation is serious.

"b) The intention of the law-giver may either be gathered from the purpose of the law or inferred from the wording chosen or the penalty imposed.

"c) A human law ordinarily does not bind *cum gravi incommodo*, and hence may be disregarded if its observance involves any serious inconvenience, such as danger to life and limb, loss of honor, health or fortune, etc. The reasons for this exemption are: 1) A law, to be binding, must be physically and morally capable of fulfillment; 2) No human legislator has power over the life, health or property of his subject, unless higher interests are at stake.

"There are, however, circumstances in which human laws bind even at the risk of life or death, e.g., 1) when the common good or the eternal salvation of one's fellowmen are involved, as often happens in the case of priests and soldiers; 2) when disobedience involves formal contempt of authority or the danger of grave scandal. In all such cases a law binds, even at the risk of life or health, for the reason that the common good is superior to that of the individual."—Idem, p. 170, ff.

PRINCIPLES ON LAW FOR THE SOLUTION OF DIFFICULTIES

A human law is an ordinance made by a human legislator and as a general and just rule for the benefit of his subjects, and properly promulgated. This definition embraces all the requisites of a true law.

1) A law is general if it is equally binding upon all the members of the community for which it is made.

2) A law is practicable if what it demands is morally possible for ordinary men to fulfill.

3) A law is just if it does not contravene any other legitimate enactment of a higher authority.

4) A law is useful if it advances the good of the whole community or at least does not hinder the welfare of the majority or injure that of the minority.

In case of doubt the presumption is always in favor of the law. If those for whom a law is made believe it has serious defects, they are free to petition or agitate for its repeal but as long as the law is in force—provided of course it is not manifestly opposed to religion or morality or declared to be invalid by the proper authority—it remains binding.

Unjust laws do not bind in conscience because they are acts of violence rather than laws, as St. Thomas says.

Men are not obliged to obey a precept which is morally impossible. *"Nemo tenetur ad impossible."*

A law which runs counter to the moral law of nature not only does not bind in conscience but must be resisted passively. Authority, be it civil or ecclesiastical, can never oblige a man to commit even a venial sin for we must obey God rather than man When persons in authority are faithless and violate the constitution even a Christian subject is justified in resisting them.

An indubitably unjust law does not bind. If, however, a law is just in its object (the thing commanded) and unjust only in its origin or purpose, it may be obeyed, provided obedience does not involve the violation of some other moral duty. Obedience to such a law may even be a strict duty, namely when some higher moral good would be jeopardized by disobedience, as in the case of public scandal or revolt, provided always that no just law is violated. In the words of the Angelic Doctor: "unjust laws are not binding in the court of conscience, except perhaps to avoid scandal or turmoil, for which cause a man ought to abate something of his right."

Laws which imperil higher rights or interests may be resisted by all legal means, such as remonstrances, appeals, petitions, agitations in the public press, etc. To employ illegal means is tantamount to sedition.

UNJUST LAWS AND REBELLION

"Closely connected with the question of law and obedience to law is the question of rebellion and resistance to unjust laws and tyrannical rulers.

"Can a legitimate ruler who abuses his power to the detriment of the state and the common good, lose his power and if so, under what circumstances? In other words is it right and lawful to offer resistance to such a tyrant?

"There are various answers to this question. Nearly all Scholastic writers formerly taught that it was allowed for the entire community to rise up against a tyrant and expel him from office when he seriously abused his power and was doing serious injury to the state. (St. Thomas, 2, 2, Q. 42, A. 2 and 3. Suarez, Def. Fidei, L. 4, C. 4, N. 15. Banez, O. P., De Justitia et Jure, J. 64. A. 3).

"More recent Catholic authors generally hold the opposite opinion and deny that it is ever allowed to resist a tyrant by force and to depose him. They appeal to the —'Librum De regimine Princ. L. 1, C. 6, ad Conc. Const. Sess. 15 et Syllabi Thes. 63.' 'It is allowed to refuse obedience to legitimate authority and even to rebel.' This is condemned but must be studied and interpreted rightly.

"What answer then should be given to this question; namely: What should be the attitude of the people towards unjust laws and unjust rulers?

"Answer 1—Tyrannical abuse of power does not *per se* take away the right to the same unless the abuse takes away the very title by which the ruler holds his office. The first statement is clear from the fact that the abuse of power does not destroy the possibility of the good use of power. If the title by which the power has been acquired, remains in fact, there is no reason for asserting that abuse of power *per se* destroys the right to rule. Such a loss of authority which would be incurred by the very fact of abuse, would work grave injury to the state and to the common good. For according to this theory great disorder would be the logical sequence of such a doctrine and subjects would too easily be led to rise up against their legitimate rulers.

"The right to rule is lost however, if the abuse of power destroys the title itself by which the right is held. The title to rule can be destroyed by the abuse of power, generally speaking, only in that case where the ruler has received his authority by a compact or by an election, and where the conditions stipulated in the compact have been violated.

"Answer 2—If the right of creating a ruler belongs to the people, the people also have the right of deposing the ruler in a case of necessity where the leader is guilty of grave and habitual abuse of power.

"This is the answer of nearly all authors including the author 'Libri De Regimine Princ. L. 1, C. 6.'

"For if the ruler does not live up to his part of the contract neither are the people obliged to live up to their part of the contract.

"Answer 3—If the abuse of power is not excessive the people are not allowed to rise up against a ruler and depose him.

"For such an insurrection of the people and such a disturbance of public order, generally involve worse evils than tyranny that is not excessive.

"Answer 4—It is never allowed to wage war against a legitimate ruler, with the intention of deposing him even if he is abusing his power tyrannically.

"For in this case you would have an instance of offensive war. But no one is allowed to wage an offensive war except the supreme authority in the state. If such a right were allowed to citizens as individuals anybody could wage war to the grave detriment of public peace and security. Now the people who are subjects do not possess supreme authority. Moreover from such a right to wage war against a legitimate ruler, there would arise necessarily frequent disorders of the gravest nature. In this sense is understood the saying: 'Rebellion is never allowed.'

"Answer 5—It is allowed however to actually resist a tyrant who attempts to inflict upon the citizens unjust enactments of the most serious nature. This active resistance is allowed only at the time when the ruler actually attempts to enforce and execute the unjust decrees (*in ipso actu aggressionis*).

"N.B.—Resistance must be distinguished and divided into three classes: a) passive resistance, which consists merely in not obeying, and this kind of resistance as regards laws which prescribe something sinful is not only allowed but is commanded. We must obey God rather than man.

"b) Active resistance, but not by means of physical force, namely resistance in which are employed legal means to repeal unjust and iniquitous laws, or to remove a tyrant, e.g., books, speeches, petitions, remonstrances, etc., and these methods of resistance are obviously right and lawful.

"c) Active and armed resistance by the use of physical force. This is the question at issue.

"Answer 6—When a ruler clearly attempts to inflict grave and serious injury upon the citizens, it is allowed to the citizens as individuals to resist such a ruler by force (at least in the case of defense of life and limb). This is almost the common opinion of philosophers. (St. Thomas 2; 2, q. 69, a. 4 and 1, 2, q. 96, a, 4 ad 3.—Suarez, Def. Fidei L. 6, c, 4, n. 5).

"For each one has the right of defending himself against an unjust aggressor, in the act of aggression according to his strength.

"Citizens therefore are allowed to mutually aid one another and to unite for defense against the unjust attack of a ruler or his emissary.

"Supreme authority in the citizens is not required for this since the people do not set themselves up as a tribunal to judge or depose the ruler but simply and solely defend themselves. It is the right of self-defense which cannot be denied to men when exercised legitimately according to the conditions required. This statement holds good *per se*. For *per accidens* from such a defense there may arise at times evils worse than those they attempt to cure. That is the cure or the remedy might be worse than the disease. In such a case it would be better to abstain from the use of force." Cf. Catherin Moral Philosophy 708 sqq.

The following quotations are taken from Fr. Rickaby's book, *Moral Philosophy,* Chap. VIII.

"May the civil power be resisted when it does grievous wrong? Let us begin our reply with another question. May children strike their parents? May a child strike its parent when the parent is going about to do the child some grevious bodily hurt, that is, may a child strike its parent in self-defense? This is an unpleasant question, but the answer is plain. We can make no exceptions to the rule of self-defense. Self-defense in extreme cases may raise the arm of a child against its parents. In a similar extremity it may set a people in conflict with their civil ruler. Still we regard with horror the idea of striking a parent, and speak of it generally as a thing never to be done. So should we regard and speak of rebellion. We should not parade it before men's eyes as a deed to be contemplated, admired, and readily put in execution. The conditions under which civil authority may be withstood in self-defense are fairly stated in the *Dublin Review* for April, 1865, Page 292.

"Resistance is lawful:—(1) When a government has become substantially and habitually tyrannical, that is, when it has lost sight of the common good, and pursues its own selfish objects to the manifest detriment of its subjects, and especially where their religious interests are concerned. (2) When all legal and pacific means have been tried in vain to recall the ruler to a sense of his

duty. (3) When there is a reasonable probability that resistance will be successful, and will not entail greater evils than those it seeks to remove. (4) When the judgment formed as to the badness of the government and the prudence of resistance thereto, is not the opinion only of private persons or of a mere party, but is that of the larger and better part of the people, so that it may morally be considered as the judgment of the community as a whole."

"Side by side with this we will set down the teaching of Leo XIII, Encyclical, Quod Apostolici.

"If ever it happens that civil power is wielded by rulers carelessly and beyond all bounds, the doctrine of the Catholic Church does not allow of insurgents rising up against them BY INDEPENDENT ACTION (*PROPRIA MARTE*), lest the tranquillity of order be more and more disturbed, or society receive greater injury thereby: and when things are come to such a pass that THERE APPEARS NO OTHER RAY OF HOPE OF PRESERVATION, the same authority teaches that a remedy must be sought in the merits of Christian patience and in earnest prayers to God."

"The words we have capitalized seem to point to conditions (3) and (4) as laid down by the writer in the *Dublin Review.*

"For an instance of a king dethroned, not *'propria marte,'* but with every appearance at least of an act of the whole nation, see the dethronement of Edward II, as related by Walsingham, Historia Anglicana, I, pp. 186, 887, Rolls Series.

"It might seem that, since resistance requires to be justified by the approval of the 'larger and better portion of the people' (condition 4), no just resistance can ever be offered to the will of the democratic majority. But the said majority may be in diverse ways, a coerced and cajoled majority, a mere packed majority, while the malcontents may be, if not 'the larger,' clearly 'the better' portion of the community. Readings:—St. Thomas, De Regimine Principum." Rickaby, *Moral Phil.,* Chap. VIII.

Question:—If a law is not accepted by the people is it obligatory?

Answer:—"If the law was never put into force and acts contrary to it, were known to and connived at by authority, the law

may be said not to bind for want of acceptance. Really it does not bind because the ruler does not urge it but tacitly consents to its non-observance. Similarly if the greater and saner portion of a community do not observe a law, it may be presumed that it is not the legislator's will to bind the rest. It is obvious that there is a question here of disciplinary laws, for if the law decides matters which involves sin obedience is at once imperative." Cf. Slater.

Question:—What is meant by the interpretation of the law?

Answer:—"The interpretation of law is its genuine explanation according to the mind of the lawgiver.

"This interpretation may be authentic, doctrinal, or customary. It is authentic if the explanation is given by him who can make the law, and it has the same authority as the law. Doctrinal interpretation is that which doctors and lawyers make according to the recognized rules of legal interpretation. It has weight according to the knowledge, skill, experience and standing of him who makes the interpretation. Customary interpretation is that which a law receives from the practice and conduct of those who are subject to it. It has very great authority for it is presumed to have at least the tacit approval of the lawgiver and indeed according to the adage: "Custom is the best interpreter."

Question:—What is meant by the term "Epikeia?"

Answer: "Epikeia or equity is a benign and equitable interpretation of the law by which it is not deemed to apply to some particular case. For cases arise where if the law were applied, hardship and harm would be the result. The law is made for ordinary conditions and is intended to apply in ordinary circumstances. The lawgiver could not forsee all possible cases and he is not presumed to intend the law to press unduly on individuals, so as to cause special hardship. So that when the observance of the law in any particular case would cause special hardship, the person so situated is excused from obeying human law by an equitable interpretation of it.

"If, for example, I should incur serious risk of contracting some disease if I went out to hear Mass on a Sunday, I am excused from obeying the precept.

"Such equitable interpretations are permitted in affirmative laws, not in those which make an act done contrary to them null and

void. The common good requires that these be observed even with grave personal inconvenience. And so the diriment impediments of marriage do not cease to bind even when they cause serious inconvenience in particular cases.

Question:—What excuses from the observance of the law?

Answer:—"The natural law continues to have binding force even though its observance entails great inconvenience. We must not commit murder to save the state nor are we allowed to tell a lie in order to preserve human life. Positive law does not however bind with the same rigor. It is an axiom that necessity knows no law. This is especially true of positive human law, which must be accommodated to the moral strength of the majority of the people. Otherwise it will be impossible to observe it and nobody can be bound to do the impossible. So that not only physical impossibility excuses from the observance of the law but also any relatively grave or serious inconvenience which constitutes moral impossibility.

"No general rule can be given for estimating the degree of difficulty which would excuse from the duty of observing any particular law in the concrete. The importance of the law, the intention of the legislator, the results of non-observance of the law, the degree of difficulty in the special case, must all be considered, and a prudent judgment given in view of all the circumstances. Cf. Slater Moral Philosophy."*

REFERENCES

Tyrannicide—Catholic Encyclopedia XV-108
Law—Catholic Encyclopedia ..... IX- 53
Civil Allegiance—Catholic Encyclopedia III-794

*The above answers have been selected from "Moral Theology," by Rev. Thomas Slater, S.J., Vol. I, Chaps. VI, VII, and VIII.

THESIS XXIII

The perfect sanction appertaining to the moral law, which is the realization or frustration of the final perfection of man's rational nature, is obtainable only in a future life.

EXPOSITION

SANCTION: The term is derived from the Latin *Sancio,—ire,* which means to render sacred or inviolable.

The term is defined—

1) *Actively*—The decree of the lawgiver by which rewards and penalties are apportioned for the observance or violation of the law.

2) *Passively*—The rewards and penalties so apportioned.

The term is applied—

1) in its native sense equally to rewards and punishment;

2) in its ordinary usage more commonly to punishment only.

PURPOSE of Sanction: is to provide efficaciously for the observance of the law by giving to the rational subject a motive sufficient to entail the consenting activity of his will to the law.

1) Sanction seeks—to induce to the observance of the law and to dissuade from its violation. This purpose, being preservative in character, is emotive, i.e., moves the will to observe the law.

2) Sanction seeks—to re-adjust through reward or punishment the objective order of justice. This purpose, being curative in character is effective subsequently to the observance or the violation of the law and independently of volition on the part of the subject of the law.

CLASSIFICATION *of Sanctions*:

A.—As to NATURE:

1) *Premial*—if a reward is promised for merit.

2) *Penal*—if a punishment is threatened for demerit.

Most sanctions in civil law are penal. The reason for this is

that the man who has the interest of the individual, domestic and social order really at heart, finds sufficient appeal in the intrinsic purpose of the civil law, i.e., the well-being of these various orders. Moreover, the State could hardly directly reward all law-abiding citizens. It does reward them in a general way by the benefits accruing from life in a well ordered State.

N.B.—"Penal" here is used in a generic sense, as is evident. In municipal or civil law, sanctions are of two kinds, both of which are "penal" in this general sense:

a) *Civil*—those which redress civil injuries.

b) *Penal*—those which punish crime.

B. —As to ORIGIN:

1) *Natural*—if the sanction is the natural outgrowth of action placed in conformity with or in violation of law.

a) *Purely mental* natural sanction, e.g., peace of mind or remorse.

b) *Physical* natural sanction, e.g., health or disease.

"God's vengeance does not manifest itself in extraordinary occurrences. The logical outcome of our faults insures our punishment."—Bourget, *Divorce,* p. 29.

2) *Positive*—if the sanction is imposed by the free will of the lawmaker.

C.—As to SUFFICIENCY OF APPEAL:

1) *Adequate*—if the reward or punishment is sufficient to move a rational will.

2) *Inadequate*—if the reward or punishment is not sufficient to move a rational will.

D.—As to EQUALITY:

1) *Proportioned*—if there is an equality between merit and reward, demerit and punishment.

2) *Unproportioned*—if there is a lack of such equality.

N.B.—This proportion is not always to be measured solely between the act done and its immediately subsequent effect.

"With respect to matters touching upon the very existence of the community, as on politics and social organization, which are

those with which criminal law is conversant, the danger to the community of the prevalence of crimes is out of all proportion to the special losses and suffering of individual persons. Hence, comes the necessity of taking a standard for the measurement of the penalty wholly different from that supplied by the measure of compensation due in particular cases." Amos, *The Science of Law*, Ch. III, p. 37.

E.—As to COMPLETENESS:

1) *Perfect*—an adequate and proportioned sanction.

2) *Imperfect*—a sanction which is inadequate or unproportioned or both.

F.—As to OPERATION:

1) Automatic—a sanction which is incurred *"ipso facto."* All natural sanctions are automatic.

2) *Incurrible*—a sanction which is incurred only after judgment has been passed on the action.

a) *Fixed* incurrible sanction—a sanction which is unalterable by the one who passes the judgment.

b) *Discretional* incurrible sanction—a sanction which may be adjusted by the one who passes the judgment.

G.—As to SPHERE OF SANCTION:

a) *Sanctions of the individual order*—i.e., a reward or punishment that affects a man precisely as an individual.

b) *Sanctions of the social order*—i.e., a reward or punishment that affects a man in his relations with other men.

c) *Sanctions of the universal order*—i.e., a reward or punishment that affects a man in his relations with his Creator.

N.B.—As our thesis deals only with the Natural Sanctions of the Natural Law and as these are found in all three orders, the following enumeration of the same will be a help in understanding the force of our proofs:

1) In the INDIVIDUAL order, which consists in the subordination of the lower appetites to the dictates of right reason, the sanctions are approval or remorse of conscience, the enjoyment or loss of mental or bodily health.

"We know, even by experience, that virtue or the observance

of the law, brings peace of mind; and that vice brings bitterness of soul, however much men may dissemble. Temperance in all things very naturally brings health and strength of body; whilst intemperance is followed by disease and accelerates death."

2) In the SOCIAL order, which consists in the essential relations of man to his fellow man, the sanctions are the social good or evil that follows upon the attention to or disregard of those relations.

"Virtue is followed by esteem, and vice by contempt. Even amongst nations, those are happy where virtue is fostered and flourishes; those tend rapidly to dissolution where vice is unchecked."

3) In the UNIVERSAL order, which consists of the relation of man to his Creator and his last end, the sanctions are final union with, or separation from God, and attainment or loss of man's last end.

"*Law* is never anything but the Divine formula of life. Whence it comes that the penalty of breaking it, is death."—Gay, *Religious Life and the Vows*—Introd., p. 10.

PROOFS

Part I. THERE IS A PERFECT SANCTION APPERTAINING TO THE NATURAL LAW.

There is a perfect sanction appertaining to the natural law if the author of the natural law is righteous, wise, and just.

But He is.

Therefore there is a perfect sanction appertaining to the natural law.

Major: No righteous legislator can be indifferent as to whether his law be observed or violated and will, therefore, safeguard its observance by sanctions.

A wise lawgiver will necessarily assign an adequate sanction.

Even a human lawmaker, if ordinarily wise, knows antecedently that man, as he is, is swayed by passions and is often a prey to them, unless given a cogent motive for self-restraint. Historically, we learn also that a law without a perfect sanction often fails to bring about its effect. To the ideally upright man the

purpose of the law, will be a sufficient motive for observance, but to other men rewards and punshments must be foreordained.

It would be unwise on the part of God or any lawgiver to found a law and not impel man to observe that law by a sufficient sanction or motive, for without an adequate sanction it would be more profitable and useful for man to break the law than to observe it. Thus if the penalty attached to the violation of a law were represented by five, and the advantage to be gained by the violation of the law were represented by eight, how many would observe the law? The generality of men figure things out on a commercial basis, and where they see a greater advantage in the violation of the law than in the observance of the law, they will not observe the law. Thus a law would be brought into contempt, would not be observed, and the purpose of the legislator would be defeated.

The sanction of a law is nothing else but a means to induce men to observe the law. But he who does not use an adequate means to effect the observance of his laws is lacking in wisdom.

Minor: That God is a wise, just and righteous lawgiver cannot be denied.

Part II. THIS SANCTION IS OBTAINABLE ONLY IN THE FUTURE LIFE.

There must be a perfect sanction for the moral law. *But* the sanction in this life is not perfect. *Therefore* there must be a perfect sanction in the future life.

Major: Evident from first part.

"*Minor*: We know from the experience of mankind that the observance of the natural law usually brings with it certain forms of happiness, such as peace of mind, friendship, honor, a fair supply of earthly possessions, health and long life: and that frequent violation of the law entails all of life's miseries, such as disquiet of mind, dishonor, poverty, disease and often an early death. Hence it is evident that the natural law has some sanction in this life. Yet this sanction is very imperfect. Oftentimes the virtuous endure great misery in this life while on the other hand, evil doers are often comparatively prosperous and apparently triumphant in their wickedness. Moreover the perfect sanction of the law requires that the rewards held out for its observance

should exceed the inconvenience and suffering incurred by observing the law and the penalties threatened should be greater than any emoluments or advantages that may be obtained by violating the law. Now what reward, for example, can be given in this life to a man who dies for the truth. What reward has ever been given to the thousands of youths who laid down their lives in the World War? Certainly no reward has been given them in this life. Therefore the rewards and penalties of this life do not form a perfect sanction of the natural law. Hence it only remains to admit that there must be a perfect sanction of the moral law in the next life." Coppens, Art. III, Chap. IV.

Part III. THIS PERFECT SANCTION IN THE NEXT LIFE CONSISTS IN THE ATTAINMENT OR LOSS OF BEATITUDE.

The perfect sanction of the moral law consists in the attainment or loss of beatitude if this sanction alone is sufficient to impel man to the observance of the law. *But* this sanction alone is sufficient to impel man to the observance of the moral law. *Therefore* the perfect sanction of the moral law consists in the attainment or loss of beatitude.

Major is clear for an insufficient sanction is not a perfect sanction.

Minor is clear, for if violators of the law are to obtain beatitude finally and reach their last end, no other sanction (let it be as great or as long as you will), would deter them from evil. Conjure up in your mind any other sanction or penalty. Let it be any number of years filled with suffering. Double it. Triple it if you will. Once grant that it will end, once grant that the wicked will eventually obtain beatitude and that happiness for which their nature longs and what will be the result? Men will sin with the assurance that some day they will be happy for all eternity. Any finite or temporal evil looks small and insignificant when compared to a state of happiness that has no end. The thing that bothers most of us is not what we shall be for a certain period but what we shall be for eternity.

Thus with any other sanction outside the loss of beatitude, men could even defy God and say: "I may be punished for a time but finally I shall reach beatitude no matter what I do here below."

COROLLARY

"We know that all men can obtain the perfect happiness for

which their nature longs insatiably. It is clear also that this happiness, our *summum bonum,* or greatest good, the possession of God Himself, is the chief sanction of the moral law. The appropriateness of such a reward is apparent from the nature of virtue, which consists in the observance of the moral law, and is the direct means to the attainment of our last end. What then could be more appropriate than that virtue's reward should be the perfect possession of that towards which its endeavors tend?

"Since vice consists essentially in a willful turning away from our last end, it becomes evident, by a process of reasoning similar to that followed above, that the privation of the possession of God is the natural and chief punishment of the wicked. Now, two ways are possible by which the wicked might be deprived of their last end, and so be deprived of the only object that can satisfy the insatiable craving of their nature. One way is by the soul's utter annihilation after death; the other is by a future life of despair, in which the soul must evermore be tormented by vain yearnings for the Good which it despised and rejected in the days of its trial on earth. We know from Revelation that the wicked who die impenitent shall be condemned to eternal sufferings. Natural reason, however, could not, of itself, give us certainty on this point. Yet it belongs to Moral Philosophy to show that this doctrine, far from being unreasonable, is in perfect accord with rational principles. Omitting the arguments adduced in our Psychology, we shall merely disprove the possibility of the soul's annihilation, the only other way of depriving man of the last end which he has forfeited. If annihilation were possible, the perfect sanction of the natural law would be impossible. A sanction is not perfect that does not make it every man's highest interest to choose, in the face of the greatest temptation, the right rather than the wrong. Now, surely, annihilation would not be, on many occasions and for many persons, a perfect sanction. Are there not many persons in the world around us who would choose annihilation after death, rather than deny themselves unlawful gratifications? Besides, what retribution would then be in store for the crime of suicide?

"Some have pleaded for the existence of another state of probation after death. But such a theory only shifts the difficulty without solving it. For, if at the end of the second probation some souls should persevere in their wickedness, shall there be a

third trial,—and a fourth, and so on, forever? As the series of trials cannot go on without end, and as it is likely that some souls would persist in malice through multiplied probations, these souls must at last enter upon a fixed state of disappointment and despair. Hence, if this state must be entered upon finally, there is no reason why the first trial should not be decisive. In the second place, such an arrangement would take from the punishment sanctioning the law its deterrent force. If, despite the present widespread belief of immediate retribution after death, so many are hopelessly wicked, how much more grievous and wicked would be the violations of the law if men were convinced that, in the next life, they would have an opportunity of averting the everlasting doom of sin!

"Moreover, since the soul by its nature is immortal, it would be unreasonable to admit the possibility of the soul's annihilation.

"Should it be objected against us, that eternal punishment is repugnant to the infinite mercy of God, we should answer that the justice of God is infinite as well as His mercy. Besides, eternal punishment is not only a vindication of right order, it is also deterrent and remedial. The consideration of that terrific retribution is calculated to keep to the narrow path of virtue many who are sorely tempted to stray therefrom, and to call back those who have left it for the perfidious ways of iniquity." Moral Philosophy, Charles Coppens, S.J., Chap. IV, Art. III.

REFERENCES

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VI. CONSCIENCE

THESIS XXIV

Conscience, or reason, when it applies the principles of the moral law to individual acts, is to be obeyed when it is prudentially certain, even if it be invincibly erroneous. To act with a doubtful conscience is always unlawful.

INTRODUCTION

Moral law, whether natural or positive, constitutes a certain objective norm binding man to regulate his conduct in accordance with its requirements. In order, however, that the law attain its end and be a directive norm of human conduct, it is required that man know the law as binding here and now, that he be able to apply it to particular concrete actions. For law consists for the most part of general practical principles; it says, e.g., "Do not steal," but it does not tell us whether the concrete action we are about to perform is an act of theft and, hence, forbidden or not. Now the application of the law to individual, concrete actions, or the discernment of the relation existing between individual actions and the law, is the special function of the moral faculty which we call conscience.

The word conscience is derived from the much wider term, *conscientia,* which signifies the state of being aware of one's own actions. It must be carefully distinguished from the similar English term consciousness, which is also from *conscientia.* "In English," says Father Rickaby, "we have done with a Latin word what neither the Latins nor the French have done; we have doubled the term, making 'conscience' stand for the moral department and leaving 'consciousness' for the universal field of objects about which we become aware." To say, therefore, that consciousness attests the existence of conscience, means that we are immediately aware of the fact that we have a conscience.

Conscience is frequently called the voice of God or a manifestation of His will in the hearts of his rational creatures. "This conception is substantially correct because conscience acquaints man with the dictates of the divine law, which is a power he may

not contemn. But conscience is not always the voice of God. Like any other human judgment, it may be erroneous. History proves this without a doubt. As man has at various times held erroneous opinions in other matters, so one may (by false training or for other reasons) hold erroneous opinions in moral questions."

Experience goes to show that laws are not presented to the human mind as facts are, immediately and intuitively. Neither, on the other hand, is the human mind directed to the fulfillment of law as animals are by the compulsion of inner instincts. In the case of man, the apprehension of a law and its application to conduct here and now invariably imply reasoning. Hence, conscience is simply an act of that faculty by which we are enabled to elicit reasoned judgments about right and wrong, good and evil—an act of the understanding or reason. It is fundamentally that very faculty by which we carry on our deductions in any science outside the sphere of morals. What is called conscience is merely the act which is elicited when we use this faculty (Reason) on moral matters—the act, namely, by which we judge whether an action is good or bad and hence to be done or to be avoided. But conscience is a particular function of our intellect; for in morals we have not to do with speculative truth, but with human actions. Hence, conscience is called an act not of the speculative, but of the practical intellect. That practical intellect is the very same intellect which tells us what to do or to avoid in ordinary extra-moral questions of the business of life—how, for instance, we ought to invest our money, or carry on business, or preserve our health.

EXPOSITION

CONSCIENCE is—

1) (In a wide acceptation) the practical judgment of the intellect regarding the moral goodness or badness of a volitional act.

N.B.—Evidently the term may be applied in this sense to past, present or future acts; if applied to present or past, the judgment made is that of a Judge and is called "Consequent" Conscience; if applied to future, the judgment made is that of a Guide, and is called "antecedent" conscience.

2) (in a strict acceptation) only this antecedent judgment of a Guide and is defined as—

The last practical judgment of the intellect regarding the moral goodness or badness of a volitional act here and now to be performed.

N.B.—"Last" here means that which immediately precedes the determination of the will.

ACTS of Conscience in second acceptance of term—are four in number; it—

a) Commands the will to act by insisting upon the law.

b) Forbids the will to act by insisting upon prohibition.

c) Persuades the will to act by counseling.

d) Permits the will to act by testifying to the lawfulness of action.

FORMATION of Conscience—the process by which the intellect arrives at the judgment called conscience is essentially syllogistic. The major premise is some universal practical truth; the minor is its application to the particular case in hand; the conclusion (i.e., conscience itself) is the final judgment as to the moral character of the act under consideration.

For example:

Major: Lost articles are to be returned to their rightful owners;

Minor: The purse I picked up is a lost article;

Conclusion: Therefore, I must return this purse to its owner;

OR:

Major: Murder is wrong and must be avoided;

Minor: The operation I am about to perform involves murder;

Conclusion: Therefore, I may not perform this operation.

The mind always goes through this process in passing judgment on particular cases, at least implicitly, but the process, through habit, becomes so rapid as not to be noticeable in ordinary matters. Hence, conscience taken in its integrity, is not a simple, but rather a complex act of the mind.

KINDS of Conscience—

A) Divided as to conformity or difformity with objective truth:

Correct, is a true judgment as to the morality of the act.

Erroneous, is a false judgment as to the morality of the act.

Erroneous conscience is either—

1) Invincibly erroneous—in which the error could not have been avoided, or

2) Vincibly erroneous—in which the error could have been avoided with ordinary effort.

(Cf. Thesis 5, page 10—Definition of vincible and invincible ignorance.)

B) divided as to firmness of assent in judgment:

Certain is a judgment made with no fear of the opposite.

Doubtful (or Probable) is a judgment giving assent to one of two contradictory propositions with fear of the truth of the opposite.

N.B.—1. The term "Doubtful" Conscience is often used to designate the state of mind in which no assent is really given to either side of the contradictories. To those who use this terminology the kind of conscience which we have called "Doubtful" above, is known as "Probable." This difference in the use of terms is easily understood for the simple reason that every probable judgment, whether in matters of morality or any other subject, is probable precisely because the mind has some doubt (i.e., is not certain) about the truth to which it assents.

2. The doubt that enters into the act of conscience may regard either the existence of a law or the existence of some other fact and may be either—

1) Positive—in which there are grave reasons for doubting; that is, there are good grounds for assenting to either side. It is of such positively doubtful judgments that we speak when we use the term "Doubtful;" or

2) Negative—in which there are few or no reasons for doubting; that is, there is no good ground for assenting to any but one side.

In this case the probability of the opposite (to the proposition assented to) is so slight that the judgment made is said to be

Prudentially certain, i.e., a judgment made because of a reason

solid enough to justify a normally prudent man in acting in a matter of recognized importance.

(Cf. Thesis 5, page 10—Definition of humanly invincible ignorance.)

C) divided as to the habitual disposition of one's intellect towards the perception of the morality of actions:

Scrupulous is a conscience inclined to judge the presence of moral evil where such does not exist and to make such judgments for very slight reasons.

Tender is a conscience inclined to advert correctly to the very smallest elements of moral evil.

Lax is a conscience inclined to judge the absence of obligation for trifling or insufficient reasons.

PROOFS

Part I. A CORRECT CONSCIENCE IS TO BE OBEYED WHEN IT IS PRUDENTIALLY CERTAIN.

A prudentially certain and correct conscience is nothing else but the moral law promulgated and applied to a concrete case.

But the moral law must be obeyed.

Therefore a correct conscience is to be obeyed when it is prudentially certain.

Part II. AN INVINCIBLY ERRONEOUS CONSCIENCE MUST BE OBEYED WHEN PRUDENTIALLY CERTAIN.

A prudentially certain conscience must be obeyed even when invincibly erroneous because it is the sole and only guide given to man by nature and if we were not obliged to obey conscience when invincibly erroneous, we never would be obliged to obey conscience because an invincibly erroneous conscience is never recognized as such. If it were it would not be invincibly erroneous. In the case of an invincibly erroneous conscience the error cannot be detected and the victim of an invincibly erroneous conscience cannot distinguish it from a correct conscience.

Thus if we were not obliged to obey an invincibly erroneous conscience we would not be obliged to obey a true and correct conscience because as far as the man is concerned both are the same. Thus disobedience to an invincibly erroneous conscience

is equivalently disobedience to a correct conscience and to the moral law.

The goodness or badness of the will depends on the object not as it exists in itself but as it is presented to the will by reason. If therefore the will be applied to an object which is presented as evil, it (the will) becomes evil, even though the judgment may be erroneous, and the same may be said concerning good.

Such disobedience would mean a collapse of all order.

Another proof of this part of the thesis is added.

Among the dictates of the natural law is the following:

"Man is obliged to do good and avoid evil according to his knowledge, i.e., as far as he can."

But by virtue of this principle each one is obliged to follow his conscience even if it be invincibly erroneous.

Therefore—

In a case of this kind a man does that which is wrong but does not recognize or suspect it as wrong but thinks he is doing right. In technical language he does material wrong but he does no formal wrong.

Part III. IT IS UNLAWFUL TO ACT WITH A DOUBTFUL CONSCIENCE.

Each one is obliged to avoid evil as far as he can. (Natural Law). *But* he who acts with a doubtful conscience, i.e., one who has reason for believing that he is wrong and neglects to investigate and find out whether he is wrong)—does not avoid evil as far as he can.

Therefore such a one acts unlawfully for he is prepared to violate the law and has a bad will. In this case we suppose a situation where a man can solve his doubt.

N.B.—If a man has a doubt and cannot solve his doubt he should either abstain from acting or follow the safer course or at least form his conscience by the use of general or reflex principles. This we will discuss in the following thesis.

REFERENCES

Conscience—Catholic Encyclopedia IV-268

THESIS XXV

In cases of doubt which cannot be solved directly, a prudentially certain conscience may be formed by the use of reflex principles.

INTRODUCTION

We have seen that a man may never act while his conscience is in doubt as to the moral goodness of the action contemplated. As often, therefore, as conscience gives no clear, positive answer to this question of morality, there can be no lawful action. What is then to be done if such perplexity cannot be removed and if a decsion seems imperative or at least very desirable.

A man's hesitation is sometimes subjective and peculiar to himself. It may turn on a matter of fact, which others know full well, though he doubts; or on a point of law, dark to him, but clearly determined by the consent of the learned. In such cases it is evidently a duty to seek information from others, taking as much trouble to procure it as the importance of the matter seems to warrant in the eyes of a normally prudent and responsible man. But it may be that all due inquiries fail. The fact remains obscure; or about the law teachers differ and arguments conflict. What then is to be done?

Such doubts persisting after proper investigation may be of two kinds:

1) The doubt regards the means necessary for fulfilling the law or of safeguarding the rights of others.

2) The doubt regards the existence of the law or the comprehension of the individual case under the law, and neither alternative of conduct imperils the certain rights of others.

This thesis gives an answer to the question, "How shall a doubt of conscience be solved," and in doing so necessarily deals separately with each of these two kinds of doubt.

EXPOSITION

DIRECTLY SOLVED: that is, by the application of direct knowledge such as he would have who had a perfect discernment

of all the facts of the case as they objectively exist and of all the laws that might enter into the case and of the full and accurate application of all these laws to the facts. To one with such knowledge there never could persist any doubt; for there is no such thing as anything objectively doubtful; everything in point of fact is or is not. But neither is there any human mind so perfect that it will always grasp the objective order of things as it is and grasp it firmly and to the exclusion of all doubts.

It is of doubts, therefore, that cannot be solved by this direct investigation of the facts and the law that we say in this thesis that we may and should have recourse to,

REFLEX PRINCIPLES: that is, principles or truths of conduct that have application precisely in these circumstances in which direct knowledge of the right or wrong cannot be obtained. By such principles a man judges his own act, as he is here and now affected and conditioned by the imperfections of his own knowledge. The use of these reflex principles leaves the direct speculative doubt still unsolved, it makes no attempt to determine what he should do who had a thorough insight into the facts and laws as they are in themselves. But it does, as we shall see, by a process of reflection, afford the prudential certitude necessary and sufficient to make action lawful.

QUESTION: *What are these reflex principles?*

ANSWER: A—*With regard to first type of doubt*—namely, where the certain right of another is concerned.

All are in agreement that it can and should be resolved into a certain judgment by having recourse to the reflex principle:

"In such a doubt the safer part is to be chosen."

That is to say all agree that, since the law evidently exists and so obliges us to action or omission as the case may be, we are just as evidently obliged to take the means within our power that are more likely to fulfill that obligation, and thus escape the danger of harming another's certain and recognized rights. As an example of the application of this principle to a case of doubt, imagine a man about to shoot at an object just as the doubt occurs to him, "Is the object a brute animal as he first thought or a fellow man?" There is here no question of a doubtful law. The law binding one not to harm another is clear. But since there is

a doubt here and now, as to whether the act of shooting is going to harm another or not, there is, in consequence, a doubt as to whether there exists any obligation here and now to abstain from shooting. Supposing this doubt cannot be solved directly by further investigation of the facts of the case, then the following argumentation must be employed to afford the certitude of conscience which is requisite before deliberate action is taken:

In doubt as to means to be employed to fulfill a certain obligation of law and safeguard a certain right of another fellow man, the safer means are to be chosen.

But here and now such a doubt exists.

Therefore, here and now the safer means are to be chosen. In the present case, shooting must be avoided.

In this argumentation the Major is self-evident. Not to choose the safer part under such circumstances would be to show oneself indifferent as to the fulfillment of a certain obligation and careless regarding the certain rights of others. The Minor is merely a statement of the fact supposed to exist. And from certain premises such as these, the conclusion drawn is evidently a certain proposition.

B—*With regard to the second type of doubt*—namely, where there is only a question of right or wrong and no question of the right of another.

There are at least six different schools of thought each with its own reflex principle to offer as the means to be used in resolving the doubt and arriving at a certain judgment of conscience. They are as follows:

1) RIGORISM—"Law obliges unless its non-existence is certain."

(In other words "Keep the law unless the argument for liberty is certain.")

2) TUTIORISM—"Law obliges unless its non-existence is most probable."

(In other words "Keep the law unless the argument for liberty is most probable."

3) PROBABILIORISM—"Law obliges unless its non-existence is more probable than its existence."

(In other words, "Keep the law unless the argument for liberty is more probable than the argument for obligation.")

4) EQUIPROBABILISM—"Law obliges unless its non-existence is at least equally as probable as its existence."

(In other words, "Keep the law unless the argument for liberty is at least equally probable as the argument for obligation.")

5) PROBABILISM—"Law obliges only when its existence is certain." Or, to use the more familiar formula, "A doubtful law does not oblige."

(In other words, "Keep the law when the argument for its existence leaves no grounds for reasonable doubt as to that existence. When, however, the argument for liberty (i.e., the non-existence of law and its obligation) is solidly probable, then there is no law and no obligation.")

6) LAXISM—"Law does not oblige whenever there is the slightest reason to doubt its existence."

(In other words, "Keep the law unless the argument for liberty has some probability no matter how slight and trifling.")

PROOFS

N.B.—The proof of this thesis really consists in establishing the validity and necessity of the two reflex principles as means of affording a certain conscience when used in cases of the two kinds of doubt spoken of:

"In doubt, the safer part is to be chosen."

"A doubtful law does not oblige."

Part I. IN DIRECT DOUBT REGARDING THE MEANS OF FULFILLING A CERTAINLY EXISTING OBLIGATION OR SAFEGUARDING CERTAINLY EXISTING RIGHTS, THE REFLEX PRINCIPLE IS TO BE USED, "In doubt the safer part is to be chosen."

In such a doubt this reflex principle is to be used if only by the use of it can moral evil be certainly avoided.

But in such a doubt only by use of this principle can moral evil be avoided. *Therefore.*

Major: Clear upon inspection; for moral evil must certainly

be avoided, and so the one possible means of avoiding it must be used.

Minor: Since the supposition is that the law certainly exists, namely, the law which forbids me to even jeopardize the certain rights of another, and, therefore, that there is certainly an obligation, it is clear that a man is obliged to take the means within his power which he knows will fulfill this obligation.

But only by placing or refraining from action which is sure to mean the observance or violation of the law will he be taking such means. *Therefore.*

Part II. IN DIRECT DOUBT REGARDING ONLY THE GOODNESS OR BADNESS OF AN ACT AND WHERE THE RIGHT OF ANOTHER IS NOT CONCERNED, THE REFLEX PRINCIPLE MAY BE USED, "A doubtful law does not oblige."

PROOF

A doubtful law does not bind.

But a law against which there stands a solidly probable reason, is a doubtful law.

Therefore. A law against which there stands a solidly probable reason, does not bind.

Major: A doubtful law is not known with certainty and hence is not sufficiently promulgated and it is essentially required that a law be promulgated and known to the subjects with certain knowledge.

Minor: A law is either certain or doubtful but it cannot be certain as long as there is a solidly probable reason against its existence here and now.

NEGATIVE PROOF, REJECTING THE OTHER THEORIES PROPOSED.

Rigorism, Tutiorism, Probabiliorism and Equiprobabilism must be rejected if Equiprobabilism is to be rejected as unsound.

But Equiprobabilism is to be rejected as unsound.

Therefore—

Major: If Equiprobabilism is unsound then the other three

systems must be false because they demand more than Equiprobabilism.

Minor: Equiprobabilism must be rejected.

Equiprobabilists assert that a law is not sufficiently doubtful until there is as strong a reason against it as for it. *But* this assertion is false.

Therefore Equiprobabilism is false and must be rejected.

Major is clear.

Minor: Just as soon as I have a solidly probable reason against a law it becomes doubtful no matter how strong the reasons may be in favor of the law. Any statement or proposition is doubtful **and remains doubtful if there is a solidly probable reason against** it no matter how strong the reasons in favor of it may be. Thus the strongest kind of evidence may point to a man as a murderer and there may be fifty witnesses against him; still he can never be certainly condemned as a murderer if there are two witnesses who give reliable testimony that he was not the murderer.

ANOTHER PROOF

The systems of Probabiliorism, Equiprobabilism and Rigorism and Tutiorism must be rejected if they impose on men an intolerable and impossible burden. *But* they do impose such a burden.

Therefore—

Major is clear because God does not impose unreasonable burdens on mankind.

Minor: These systems require that a man weigh the reasons "pro and con" in any doubtful case. But such a process of comparison is practically impossible for the average man who has neither the time nor the knowledge to institute such an intricate process of comparison. Even the most learned after years of study are unable often to determine the exact degree of probability in various arguments. Moreover a reason that seems more probable today will often seem less probable at another time to the same man. Moreover in the practical questions of every day life decisions must be made promptly, and immediate action must be taken. Under these systems this would be impossible.

LAXISM

That theory is to be rejected which justifies the performance of an action without a prudentially certain conscience.

But Laxism is such. *Therefore.*

Major: An evident consequence of the preceding thesis.

Minor: The performance of an action, the lawfulness of which we prudently doubt, is the performance of an action without a prudentially certain conscience.

But Laxism justifies such an action. *Therefore.*

Minor: Laxism justifies an action for the lawfulness of which one has a merely trifling argument.

COROLLARY I

I. In the light of this vindication of, not only the reasonableness, but the necessity of admitting Probabilism as the one proper system of solving an otherwise doubtful state of conscience, it is well to note that the name given to the second of the above-enumerated theories, namely, Tutiorism, is used by us only because it is the accepted title of that school of thought; our use of this name is by no means to be considered as an admission that the reflex principle offered by the followers of that system affords any greater "safety" or assurance against the danger of moral evil than is afforded by our principle and the solution of a doubtful conscience arrived at by the use of our principle. Our contention is that by the use of our principle we are *absolutely safe* from all danger of such moral evil; for by means of this principle we establish with certainty that there is in cases of such direct doubt *no law* and where there is no law there can be *absolutely no danger* of violating a law.

II. When there is a question of the rights of another or when there is a question of an end which must be absolutely attained, there is no room for the application of Probabilism. For there is a law which strictly prohibits me to jeopardize the rights of another or to jeopardize the attainment of an end which must be absolutely attained. In this case, the safer course must be followed.

But when there is no question of the rights of another or no question of an end which must be absolutely attained and the only question at stake is concerning the liceity or illiceity of the act, then there is room for the application of Probabilism.

SCHOLION

"A subjectively certain conscience is required before perform-

ing any action as we have seen. A great difficulty arises from this principle in consequence of the uncertainty as to whether many actions in the concrete are lawful. One need not consult the works of moralists to find out what difference of opinion there is among experts on many practical questions of morals. It will be sufficient to consult one's own experience. In the seeming conflict of rights and duties we are frequently at a loss as to what course duty prescribes. The cases which are constantly submitted to the decisions of courts of law but which also belong to morality, illustrate the familiar truth that opinion and not certainty is very often alone attainable in the field of conduct. But if this be the case what is a conscientious man to do? He finds himself in a difficulty.

"A young man has promised to marry a girl somewhat his inferior in social position. They are satisfied that the union would be a happy one for both, but the young man's parents will not hear of the thing and strictly forbid him to see the girl again. Must he obey his parents or may he follow his inclinations and keep his promise. He consults those whose knowledge and judgment he respects and they give him contrary decisions. He goes to recognized authorities on morals and finds the same difference of opinion.

"The example is but a type of innumerable questions which constantly arise in everyday life. Is it possible to lay down any universal principle for the solution of such doubtful cases so as to be able to act with a certain conscience.

"Catholic philosophers answer this question in the affirmative but they are not agreed as to what the principle is. A Probabiliorist would tell the young man that he must obey his parents and break off the engagement unless the opinion that he may marry the girl in spite of the prohibition is distinctly more probable than the opposite. An Equiprobabilist would say that he may marry the girl in spite of the prohibition if the weight of opinion is fairly equal on both sides. A Probabilist would maintain that he may marry the girl if there is a solidly probable opinion which favors that course. The terms are technical and their meaning must be carefully studied.

"An opinion, as we have already gathered from St. Thomas, is an adhesion of the mind to one proposition, but with a consciousness that the opposite may be true.

"A probable opinion is one which rests on good and solid grounds, such as would incline a man of prudence and judgment to embrace it. If the intrinsic reasons of the opinion are the grounds for embracing it, we have an intrinsic probability; if authority is the ground, we have extrinsic probability.

"A more probable opinion is one which rests on weightier reasons than the opposite.

"A very probable opinion rests on such solid grounds that the opposite is not considered solidly probable.

"A morally certain opinion excludes even slight probability in the opposite. It is the adhesion of the mind to a truth without any fear of mistake.

"In this difficult question the Catholic Church so far has been content to condemn certain extreme views, and allows her children to follow any of the moderate systems mentioned above. Alexander VIII condemned rigorism which required direct moral certainty in all cases about the lawfulness of an action and denied that it is ever lawful to follow an opinion which is very probable among several. Laxism was condemned by Innocent XI since it taught that one might lawfully act on a slight probability. The systems which are known as Probabiliorism, Equiprobabilism, and Probabilism all have their adherents. The Catholic Moralist is free to follow whichever he wishes.

"To us it seems that Probabilism is the true system and if it be rightly understood as it is taught by its moderate supporters and not as it is interpreted by its opponents, we are convinced that it will recommend itself to practical common sense.

"Its maxim may be formulated thus: When there is *only* question of committing sin or not, it is lawful to follow a solidly probable opinion, even though the opposite may be more probable.

"The wording of the formula should be carefully weighed.

"The words 'when there is only question of committing sin or not,' limit the application of the principle to cases where the only question is whether by following such a course, sin will be committed because a certain law, human or divine, will be broken. Probabilism then cannot be applied to cases where the validity of an act is in question, where some end must be obtained, or where there is question of the certain right of some other person

which must be respected. In all these cases we are bound to safeguard the end by taking means that are sure and not merely probable. These are not so many excepions to the use of probabilism. There is a certain obligation to use secure means to obtain the end in view in such cases, and so there can be no question as to whether probabilism is applicable or not. This will explain why Innocent XI condemned a proposition which asserted that it is not unlawful for a minister of the sacraments to follow a probable opinion about their validity when administering them; and another, which taught that a judge might use probabilism in giving sentence in a court of law; and a third which excused an infidel who followed a probable opinion and remained in infidelity. In all these cases there is not merely question of sin, but the certain rights of others are at stake, or there is question of an end which cannot lawfully be exposed to risk.

"Suppose the case of a man who shoots for fun into a street crowded with people. Now even in this case it is only probable that some one will be killed, still the law of probabilism does not hold. The person concerned cannot say that it is probable that all will escape, and therefore I may shoot. Such an act would be quite unlawful. We believe, however, that the case is not a genuine exception to the rule of Probabilism. For the question in this case, is not of a right or a law which is being only probably violated, but of a right which is being certainly violated and the right which is being certainly violated is the right which each man has not only that others should not take away his life, but that they should not wantonly endanger human life.

"Again the words 'it is lawful to follow a solidly probable opinion' should be noted. It is not a question as to what is more perfect, what the noble and generous thing to do, may be. The rule merely asserts that there is no obligation under pain of sin to follow the more perfect course if in the case there be one.

"Finally the words are added 'even though the opposite may be more probable.' For the greater probability of the other view does not make it certain nor is the supposed greater probability a sure guarantee that the more probable view is the more true. It very frequently happens that an opinion which is considered more probable at one time is thought less probable or altogether improbable at another. Moreover degrees of probability are very difficult to determine. What seems more probable to one philosopher

seems less so to another, or even to the same at a different time. And even if it be granted that one opinion is certainly and absolutely more probable, the opposite may for all that remain solidly probable.

"The systems of Probabiliorism and Equiprobabilism involve a process of comparing the reasons on both sides which is practically impossible for the average man. Thus before one can act he must ascertain whether the reasons favoring the course of action are as strong as the reasons favoring abstention, etc."*

COROLLARY

"A limitation to the use of probabilism is mentioned by philosophers. When one has decided on any course of conduct he must loyally adhere to the consequences which the decision involves. He must not use a probable opinion to gain an advantage, and then in the same matter adopt the contrary opinion in order to shake off a burden. And so when a probable opinion has been adopted in favor of the validity of a will in my behalf, I cannot also adopt a contrary opinion that the will is invalid and refuse to pay the legacies." Cf. Slater, Moral Philosophy, Vol. I, Book II, Chap. IV.

"I cannot eat my cake and have it too."

COROLLARY

"John finds among the effects of his deceased father a valuable set of books which on the testimony of various receipts for payment, were bought upon the installment plan from a publishing company which is no longer in existence. From records available to John it appears that his father died owing the publishing company one hundred dollars. John asks himself, 'May I keep the books and do nothing about the matter of payment, or must I pay the debt?' John attempts to solve the matter directly by investigation. He knows that the father was a strictly honest man and that he paid his debts promptly. Could he have paid the bill and mislaid the receipts? Hardly, for he was as careful to preserve receipts as to pay bills. Could the bill have been paid and no receipts rendered by the publishing company? Not likely for John's father was not the man to make continued remittances and

*Moral Theology, by Rev. Thomas A. Slater, S.J., Vol. I, Book II, Chap. IV.

receive no official recognition of payment. John makes inquiries about the publishing company, and learns that it failed through mismanagement; that much money was paid into its offices and left unaccounted for and that many of its outstanding dues were not received. The doubt remains. Evidently then the matter cannot be settled by direct inquiry. Then and only then is John free to apply the reflex principle—'A doubtful law does not bind.'

"Notice that the law here is found by diligent inquiry to be doubtful—not in itself but in its application.

"Thus John may say, 'I have made due inquiry and my doubt remains. The law which requires me to give every man his due is here of doubtful application, in that sense a doubtful law. Now a doubtful law does not bind. Hence I am not bound to pay one hundred dollars, but may remain in just possession of the books.' Thus does John banish doubt and achieve moral certitude. (Glenn, Ethics).

"Consider the following cases which are taken from the book, 'Ethics, by Glen.'

"1) A physician has a sure remedy for a certain disease. He has also a second remedy which he has very strong reasons for believing will effect a cure more rapidly, and with less discomfort to the patient, than the first. May he use the second remedy?

"2) Pasteur found his anti-toxin for hydrophobia most effective when used on animals. No other remedy for the dread disease was known. A child that had been bitten by a mad dog was brought to Pasteur. Could he administer the anti-toxin, although it had never been used in the treatment of a human being?

"3) A tenant doubts whether he has paid his rent for a certain month. His landlord, a careless man in his accounts is also in doubt. Must the tenant pay the rent?"*

*Ethics by Rev. Paul J. Glenn, Ph.D., S.T.D., Chap. III, pages 89-93, and 94. Cf. also "Compendium Theologiae Moralis, by Sabetti-Barrett," number 421. Many intricate and complex points arise concerning the question of doubtful possession and doubtful debts and restitution and these should be referred to a theologian.

VII. SUBJECTIVE RIGHT

THESIS XXVI

Right, subjectively considered, or the moral inviolable power to do or hold or exact something, is derived from man's obligation to observe the moral law. True rights, therefore, exist independently of any positive law.

INTRODUCTION

It has been proved that man is obliged by the moral law of God to realize in his volitional actions that ideal of conduct which is in reality the perfection of his own created nature. As this obligation is natural, man must evidently receive from nature the means necessary to fulfill it. Chief among these means there must be—

1) the power sufficient to restrain others from such interference with his free activity as would make it impossible or unreasonably difficult for man to direct himself to the realization of this ultimate well-being; and

2) the power sufficient to obtain for himself whatever is required in this process of living according to the moral law.

Now it is clear that nature has not given the individual human being physical power sufficient to restrain the encroachments of others' physical forces upon his requisite freedom of development. She must, therefore, have given him some other kind of power whereby this same restraint can be effected. And the only other power conceivable is the power of influencing the wills of other men so that these may be led to determine themselves freely not to interfere with this requisite freedom. And the only way that such influence can be brought to bear upon free wills is by the proposal to the intellects of the agents in question of a motive that will serve to induce such self-determined restraint. And a power that is exercised thus upon free wills through intellectual knowledge is rightly called a moral power.

EXPOSITION

POWER: (frequently called "faculty") is a native capacity of some kind. There are two kinds of power:

PHYSICAL power—i.e., the physical strength requisite to secure a certain end.

MORAL power—a power which operates by its appeal to another's will through knowledge.

INVIOLABLE—i.e., a right puts a bond upon the free wills of others of such a nature that it cannot be broken without moral guilt. By this bond others are morally constrained—

1) not to impede the possessor of the right in any use of his free will permitted or commanded by the natural law; and

2) to grant him everything which the natural law makes it lawful or obligatory for him to demand.

TO DO: i.e., the matter of a right is frequently a personal act to be posited or omitted by the possessor of the right.

TO HOLD: i.e., the matter of right is frequently some good, internal or external, of body or of soul.

TO EXACT: i.e., the matter of a right is frequently an act to be posited or omitted by another.

DERIVED FROM: i.e., has its source or origin in, is based or grounded on.

TRUE RIGHTS: i.e., such moral inviolable powers as described above exist in reality, not merely in name.

INDEPENDENTLY OF: i.e., antecedently to the free act of any law-maker, human or Divine, such rights exist and so do not derive their effectiveness from any positive law, but solely from the natural law. SUCH rights are, therefore, properly called:

NATURAL RIGHTS: i.e., rights conferred by the natural law—to distinguish them from

POSITIVE RIGHTS: i.e., rights which may be conferred by positive law.

We do not deny in this thesis that there may be or that there are such things as positive rights; we say nothing at all about this point, though it is clear enough that, for the same reason that positive law is a necessity, positive rights may also be necessary. What we do say in this thesis is simply that, as a necessary consequence of his obligation to observe the moral law, man has, by gift of nature, certain moral powers, no less than he has cer-

tain physical powers, and that these powers are such that they cannot be resisted or overlooked by others except at the cost of a violation of this same moral law.

The two parts of the thesis are really different forms of stating the same thing and either or both of them might be enunciated as follows:

TRUE NATURAL RIGHTS EXIST

PROOFS

Part I.

Subjective right is derived from man's obligation to observe the moral law, if without subjective right man could not fulfill that obligation.

But without subjective right man could not fulfill that obligation. *Therefore.*

Major: Evident; for God, the author of the obligation of moral law, cannot fail to give man the means necessary to fulfill that obligation.

Minor: That obligation really means the duty to perfect his rational nature. But this duty evidently cannot be performed unless man has, in addition to his physical powers, a moral power of constraining the wills of others to respect not only the natural independence and rational dignity of his own person, but also his use of those things which he has made his own.

Part II.

Natural rights exist independently of any positive law if natural rights are the foundation of all positive rights.

But natural rights are the foundation of all positive rights.

Therefore, natural rights exist independently of any positive law.

Major: Evident; for no one denies the existence of positive rights.

Minor: Civil society, when it passes its first law ought to have the right of passing laws and imposing obligations. Where does civil authority get this right of imposing obligations? If the answer be from a compact, I ask again, where does this compact

derive its binding force? Why am I bound to abide by this compact? If you do not admit the principle of the natural law—"compacts must be observed"—a true valid contract among men is impossible. If you say that this compact derives its power of binding from custom and the consent of mankind, I ask again, where does this custom or consent of mankind derive its binding force? Finally, you must fall back on the principle of the natural law, "compacts must be observed." But this duty to observe compacts connotes the right of exacting from my fellow man the observance of such compacts.

All rights come from LAW and they come from LAW because it places a DUTY on the subject. But the fundamental law from which all other laws derive their force and efficacy is the Natural Law. Now the Law-giver of the Natural Law is God, who has the RIGHT to man's obedience. *Immediately* consequent upon this right of God is DUTY in man. Hence, prior to every right in a man is his duty, general or particular, and prior to every duty is God's right to the ultimate purpose of creation and to the submission and service of mankind.

SCHOLIA

Right, subjectively considered, is derived from man's obligation to observe the natural law. True rights therefore exist independently of any positive law.

Juridical positivism holds that civil law is the source of all right and duty. Or they hold that right is derived from an implied or expressed contract, the social contract of Rousseau, or they hold that right has its origin in custom or public law. Rights develop pretty much as language.

As regards those who hold that right originates in civil society and civil law, the question arises, where does civil society get its power to confer rights and to impose duties on its subjects from which rights flow.

According to our opinion society is willed by God. Hence, whatever is necessary for civil society is willed by God, namely, the power to confer rights on its subjects and to impose duties on its subjects.

Therefore natural right is prior to and independent of any positive law whatsoever.

Civil society must be vested with the right to command when it enacts its first law. Where does it get this right?

Not from itself. For this is precisely the question. By what right does civil society exist? In other words, who established civil society and gave it power?

Not by any positive law because no positive law yet exists.

Not from Rousseau's social contract. Because in this supposition we ask why does this social contract bind? A contract cannot bind if there is no obligation to observe a contract, and there is no obligation because as yet there is no law. Moreover, if we leave God out how can men who are equals bind one another?

In other words what binding force has any contract without law? Now no positive law exists antecedent to the state. Therefore we must admit a natural law which binds men to live in society.

Coaction is not the essence of rights because in some rights it is simply impossible. For instance, it is impossible for anybody to force another to think well of him and yet each man has the right of being thought well of, *"suppositis supponendis."*

But coaction is an essential property of some rights, namely, my right to life and to external goods etc., because unless I had the right to appeal to force (coactivity) in these rights, I would not be able to live. The violation of such rights takes away from me the very means of existence. Whereas the violation of the right I have to my reputation hurts me but does not deprive me of life or any essential thing and again there are at my disposal means of safeguarding my reputation (other than by force). But in many rights there is no other means of safeguarding my rights except by an appeal to force.

Coactivity normally belongs to the state and not to the individual because the common good demands that society should exercise this right except in an extreme case such as self-defence against a murderer, etc. Otherwise there would be no order.

Therefore—the use of violence—and sit-down strikes are unlawful in labor troubles.

Right is the moral power that a man has over something as his own.

It is called a power to distinguish it from a duty.

It is called a moral power to distinguish it from a physical power.

It is called an inviolable power not because it cannot be violated but because it cannot be violated without moral guilt.

Over something as his own—because the matter of a right is something which is bound to the individual as a thing to its owner.

Right therefore is the lawful power of demanding, holding or using something as one's own.

Duty is the moral obligation of doing something or omitting something in favor of another.

Note that right and duty are called respectively moral power and moral obligation.

A moral power operates by means of the will and intellect. Now since a right is a moral power it resides in the will and operates through the will and hence only beings with will and intellects or persons can be the subjects of right.

Likewise as duty is a moral obligation which operates on the will through reason, only a being that has reason and will can be the subject of a duty.

Therefore brutes as devoid of intellect and free will can have no rights. Neither can they have duties.

They only have physical powers, no moral powers.

Duty and rights are correlative terms. For a right would be vain and illusory if it did not carry with it the moral power of coercing others to respect that right and not interfering.

Therefore a right in one person supposes a duty in another person of observing that right and respecting that right.

If I have the right to life, liberty and the pursuit of happiness, others have the duty of not interfering with my exercise of that right.

Of what use would it be to have the right to liberty if others can, with impunity impede my liberty? That is a right to live in a certain place would be foolish if another person could without moral guilt, drive me out of that place. The right to vote is foolish if somebody else can impede me from voting and incur no moral guilt.

COROLLARY*

Law, as we have seen, is a binding rule of action. The effect of law is to establish in one the duty to do or not to do something and in another person the right to its being done or avoided.

Right then is a result of law. It springs from law simultaneously with duty. Thus the law that binds a man to pay for what he buys, establishes a relation between the seller and buyer, which relation is on the side of the seller, a right to payment, and on the side of the buyer, a duty to pay. So also the law that binds parents to support their children establishes in the parent the duty and in the child the right of support.

Now it is evident from the examples we have just given—that of the seller of goods and that of the child—that right is always a power of some kind, something which enables one to have or do something. But right is a power of a very particular kind as will be seen from the following example. Every man has the right to the exercise of his faculties. He has the right to walk, to speak, to work, to eat without interference from other people. Now a man's power to keep off unjust interference by others is twofold. First, he can ward off interference by means of physical power—the physical power of hands and feet and firearms. But this is not evidently the kind of power referred to when men speak of right. For even when physical power avails us nothing, when, for instance, others so overpower us that we are unable to resist them physically, or even when the state is unable or unwilling to help us, there still remains to us, in many cases, another power in virtue of which we are justified in claiming something as ours or calling something our own, even though we know we may never succeed in keeping or obtaining that thing. The power we speak of is a moral power. It is the power conferred on us by the moral law, a law which forbids undue interference with our liberty, a law which creates in others, if not the desire, at least the duty, to respect our liberty. And to this moral power we give the name of right, which, therefore, we define "as the moral power (faculty) of doing or possessing something." The existence of such a power in us depends on the existence of a moral law, from which right follows as necessarily as any effect follows from its cause.

*The following paragraphs in this thesis are taken from Cronin, Science of Ethics, Vol. I, Chap. 20.

The question how far this kind of power is efficacious—that is, how far it is able to influence men to avoid injustice—is outside the scope of our present inquiry, which concerns the meaning of right only. But it may not be out of place at this point to quote our view that, though bad men respect only physical power, with good men the moral power would seem to be more efficacious, for most good men avoid injustice not because of the terrors of punishment but from an inner sense of duty.

THE PROPERTIES OF RIGHT

Right has three principle properties or characteristics—namely, inviolability, limitation and coaction.

Inviolability. This, first and fundamental property of right consists in the fact that a man must not be interfered with in the exercise of his right. By inviolability we mean that if a man has the right to sing, to walk or to hunt, then no one can lawfully prevent him from doing these things. Every right involves this property of inviolability—that is, every right involves necessarily and essentially, besides the conception of lawfulness to do a thing, the conception of duty in some other person not to hinder the doing of it. In no intelligible sense could I be said to have a right to walk the street if every man could lawfully prevent me from doing so.

Limitation means that one right can limit the exercise of another, that in the exercise of right we are not free to disregard the counter claims of others. We must conceive the moral laws from which rights spring as making up one organic system just as the parts of the body make up one organic bodily system. And just as the functions of one part of an organism limit the functions of others—that is, no part should be exercised prejudiciously to the others—so due regard must be had in exercising any right, or in following any law, to the whole system of rights and laws that regulate human conduct. Thus the law which gives a man the right to keep what he produces is limited and conditioned by other laws, such as the law of charity, which binds a man to help his neighbor. Also the right of man to liberty in the use of his faculties is limited by the right of another man to the same. The *extent* of man's rights depends largely upon the property of limitation.

Coaction. The third property of right is coaction. The right

of coaction is the moral power that attaches to each right of using physical force in so far as it is necessary for its defence. Naturally the necessity for violence appertains to external rights only. Thus a father could not compel the love of his children by violence though he has a right to their love. But external rights like that to property, carry with them this right of defence or of coaction —a power that arises from the fact that he who has a right to the end has a right to such means as are necessary for obtaining the end. Hence, if a man has the right to possess a house, he has the right to the use of violence, either personally or through the state in its defence, provided, as we have said in the last paragraph, that in defending the house he offend against no law and no other person's right.

We may here call attention to two erroneous theories which are to be found in the works of Ihering, Hegel, Thomasius and other modern ethicians. The first is the view that the power of coaction is to be regarded not as a property of right but as its essence, that right is a coactive power. Thus Ihering defines right in one place as the "conception of all the coactive laws obtaining in a State;" and in another place, "the securing of the conditions of social life in the form of coercive power." And Hegel defines abstract right as the right to use force.

Now we maintain that right cannot be the same as the power of coaction since the power of coaction presupposes right and follows from it as a consequence. It would be an absurd thing, for instance, for the State to defend a man's property unless it knew that the man had a right to his property. Defence, then, presupposes the right of ownership and hence it is properly regarded as a consequence of right—not as its essence.

The second error referred to concerns the nature of this power of coaction. The reader will remember that when we spoke of coactive power as a property of right we defined coactive power as a right to coaction not as actual coaction or the physical power of coaction. By coaction here we mean that a man who owns a house has a right to defend his house against aggressors. But many of these ethicians to whom we have just referred identify right not with the right of coaction but with actual physical power of coaction, so that, according to these philosophers, a right to anything is nothing more than the actual physical power that we possess to defend or hold a thing. Now, this theory we cannot

allow. In the first place right is not the same thing as coaction. A man has still a right to his house even though he is not able to defend it and even though the State will not defend it for him. Might and right are very different things. Right pertains to the moral, might to the physical world. Right is a moral power, might is only brute force. We may have a right, therefore, to a thing which still we are unable to defend. But what, it may be asked, is the good of a right that cannot be defended by actual violence—what good, for instance, is the right to a house that we cannot defend, and which the State refuses to defend? "What is right without power?" asks Ihering, "but a fire that burns not—a light that does not illumine?" We answer—right without might is like a fire that is smothered, that will not be allowed to burn, the light that is shut in, so that it cannot illumine. Right without might is, therefore, a real thing, just as the moral law is a real thing. And it has this effectiveness, that he who violates it, sins against the moral law—a consideration, as we have already said, that may not weigh with evil men who care nothing for justice, but which will weigh with the just who hate evil of every kind, and will respect a man's liberty and property even though the State fail in its duty to defend them. But we must remember also, that even though a right of nature be undefended by the State, it will not remain undefended by nature herself, and that every right will in the end be vindicated by Nature's Chief Legislator. Right, even though it may not be vindicated here, must necessarily be vindicated at some time and in some place.

But the point we wish now to insist on, is that rights involve a right of their defence and that the right to defend may still remain, even though we be not physically able to use our right.

It is to this right of defence that we allude when we say that coaction is a property of right.

SOME RIGHTS ARE NATURAL

We distinguished above between natural and positive rights; that is, between rights conferred by the natural law and rights conferred by human law. Now many ethicians deny that any rights are natural rights and insist that all rights are conferred by positive human law or by the State. This theory it will not be necessary to disprove here. For we have already shown that the natural law is a reality and since right is a consequence of

law, it follows that any particular right must necessarily take on the character of the law in which it originates. The natural law, then, will give rise to natural rights, as the positive law confers positive rights. Thus the right which every man has to his own life and to such means as are necessary for sustaining it, is a natural right. Also the right of men to the fulfillment of a contract, to their good name, to the fruits of their labor, the right of a husband to fidelity on the part of his wife, the right of parents to respect on the part of their children and of children to support on the part of their parents, the right of the state to co-operation and obedience on the part of its subjects, and of subjects to protection by the state, the right of individual liberty (within certain well defined limits) or of immunity from interference from others, the right of personal development, the right of the state to maintain itself and to oppose aggression from other states —all these rights are from nature, since the laws on which they are grounded are natural laws, these laws being grounded on natural appetites.

Sometimes it is objected that the State can only annul a right which it creates. But the State can annul many rights of justice as is evident from the existence of the statute of limitations. Therefore rights of justice are a creation of the State and not of nature. And if rights of justice are not natural, no rights are natural.

Reply.—We deny the major proposition of this argument. The State has a natural right to do anything that is necessary for the common good and therefore it may annul any rights, even rights which it does not create, provided that insistence on these rights would be harmful to the community. It may also determine the conditions of natural rights, e.g., it has power to place conditions to contracts, and to annul a seller's right to payment, when these conditions are not fulfilled.

Jurists raise the difficulty that to admit that some rights are natural would be most awkward for the State since the State expects that its judges will rule according to the law of the land only.

Reply.—The fact that judges are expected to rule according to the law of the land only, is proof, not that no natural law or right exists, but only that the consideration of the natural law

and of natural right is to a very large extent outside the province of judges. The natural law, it is supposed, is fully consulted for by the legislator when the laws of the land are being made and introduced, and it is right that the judges should trust these laws and rule according to them only, whenever they are found to cover the case in point. We insist, however, that a judge has often to give his decision on points of the natural law, when the positive law fails him, and also that it would be unlawful for him to administer any law that was clearly antagonistic to nature. As regards the awkward effects referred to, we may make the admission that for judges the existence of a natural law might often be an embarrassing thing, but we contend also that the natural law is the one great safeguard of the community at large against evil and oppressive legislation and also against maladministration of even good laws.

These difficulties then do not disprove our theory that some rights are natural.

COROLLARIES

A right which opposes the moral law is no right, because no authority can ever bestow on man the power (moral) to disobey the law of God. Yet some jurists have maintained that any power conferred by a competent authority is valid.

ERRONEOUS THEORIES ON THE ORIGIN AND NATURE OF RIGHTS. THEORY THAT ALL RIGHTS ORIGINATE WITH STATE.

The most important, because the most widespread of all modern errors on the origin of rights is the theory that all rights originate with the State. It would be difficult to say how far back this theory dates in the history of philosophy. It certainly was taught by many ancient philosophers since it forms part of the very ancient theory that morality originates with the State. But many modern philosophers have discussed this question of the origin of right on its own account—that is apart altogether from any question of the origin of the moral law, and have decided that though the moral law is independent of the State law, a right originates with the State, and is therefore dependent on the will of the ruler.

Criticism.—We admit that the State can confer some rights but

our present contention is that not all rights originate with the State.

(a) It cannot be that all rights originate with the State since we have conclusively shown that there are such things as natural rights. There must be natural rights because there are natural laws, right being simply a result of law. Thus children have a natural right of support from their parents and every man has a natural right to his life, and to the means of supporting it; husbands have a natural right to fidelity on the part of their wives, etc. None of these originates with the State.

(b) The State cannot be the source of all right for it cannot be the source of its own right to existence. And if it cannot originate its own right to existence, then unless its right to existence be from nature, from what can it be derived.

(c) Again if the State has no natural right to its own existence, it could not confer rights on others and if it attempted to do so nobody would be bound to heed its action for it would be a State without authority, existing without any right.

(d) The individual has rights against the State which could not be true if the State were the source of all rights. For instance, the individual has the right to his life which the State cannot take away, except the individual be guilty of some crime. But if there be rights against the State the State cannot be the source of all rights.

(e) If the state be the source of all rights, then how could one State have rights against another State? The State can rule its own subjects but it cannot rule other States and consequently it could not create rights against other States. Yet each State has rights against other States, which rights must, therefore, be from nature.

(f) If the State created all rights it could confer upon itself a right to do anything that it wished to do, and in that case, the State could never do wrong. But the State can do wrong and has done wrong; therefore rights cannot all originate with the State.

(g) The theory of the—"State—the origin of all rights," has many evil consequences, some for the State itself, some for the individual. One consequence that concerns the State itself, is that,

if this theory be true, then the State has no rights or authority from nature to rule or confer rights; and if the State has no natural authority its ruling need not be respected. A consequence for the subject is that if the State be the source of all right, the individual can have no right against the State. The latter consequence we could never recognize or accept. Hence it is not true that all right originates with the State.

THEORY THAT ALL RIGHT IS BASED UPON CONTRACT

Practically all that we have written on the theory of the—"State, the source of right," applies equally to the theory defended by Hobbes, Fichte and many others that all right originates in voluntary contract. We add however one or two arguments which are proper to the contract theory and which the reader can himself further expand and illustrate. Admitting that some rights are based on contract we claim still that there are other rights that are not based on contract and that in fact no right can be based on contract alone. For first if all rights were based on contract there could be no such thing as inalienable rights. Inalienable rights are rights which we cannot of our own accord renounce, e.g., the right of a father to respect from his children and of a child to support, of the State to maintenance. Were these rghts the result of voluntary contract the parties who made the contract could break it by mutual agreement and so remove the right. But since certain rights are inalienable this is impossible. A father, for instance, cannot renounce his right to respect nor a child his right to support and education. Secondly, since there is nothing that a man cannot contract to do, so there is nothing to which a man may not acquire a right, if this theory be logically worked out. If all right originates in contract, then by a simple process of common agreement men might acquire a right to do the most iniquitous things. But since all admit that some acts could never become our right, it follows that rights cannot be all based on contract.

THEORY OF THE HISTORICAL SCHOOL THAT CUSTOM IS THE ULTIMATE GROUND OF RIGHT.

The central point in this theory and the point which we now proceed to criticise, is that all rights originate in the customs of the people.

It must be granted that some rights originate in custom, for some laws originate in custom and right is the result of law. But when custom originates a law, it does so, not as a custom, not as a mere practice, but only in so far as custom is an expression of the will of the lawgiver. Hence, laws of custom originate, like other laws, in the will of the lawgiver. If the will of the lawgiver be not presupposed, custom would have no power to originate a law. And as all right originates in law, so rights which come from custom are always grounded in something deeper than mere custom. The historical theory of rights is a theory which grounds rights ultimately on outward custom or practice and not on the authority of the legislator. The theory which grounds rights on the will of the legislator, even though the people were themselves the legislators, is a distinct theory from the present, and it has already been criticized by us. (See theory that all rights originate in the State.)

Right springs, as we saw, from law. Now in no department of nature is law grounded on mere custom. A stone does not fall to the earth simply because it fell in former ages. A plant does not grow today because plants grew yesterday. So if there is any analogy in nature between the various parts of nature, it would follow that human laws cannot be based merely on the fact that men in former times uniformly did certain actions. Rather both former actions and present law are based upon the necessities of nature, just as the falling of a stone in former times and its falling today are based on the same necessity of nature—namely, the force of gravitation. Hence law does not originate in custom and rights, therefore, which are grounded on law cannot be based on mere past customs.

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THESIS XXVII

The juridical order is a part of the moral order.

PROOF AND EXPLANATION

"From previous explanations, it will be plain that we must regard right as founded on law, and since the laws by which human acts are directed appertain to the moral order, it follows that we must regard rights as also appertaining to the moral order—as a branch of morality—as dependent on morality.

"Against this view, some ethicians such as Kant and Thomasius, maintain that right does not depend on morality, that they have different objects and a different origin, the one (right) originating in the law of the State, the other (morals) in the moral law; the one appertaining to external action, the other to internal motive; that consequently there is a well marked cleavage between right and morals.

"The following two arguments will, we believe, make it evident that right cannot be divorced from morals—that apart from morals right would have absolutely no meaning.

"First, right, as already stated, depends on natural law. But regarded as a rule of human action, the natural law is the moral law. Therefore, right depends on moral law.

"Secondly, in no sense can I be said to have a right to keep money except it be understood that other men are under an obligation not to take it from me. But obligation belongs to morality. Consequently, right, if it be independent of the moral law, can have no meaning.

"The following argument is sometimes advanced to show that right is independent of morality. Right and morals belong to two totally different spheres of human life. The one (right) has to do with external action—the other (morality) has to do with inner motive. Legality (or right) and morality thus stand apart from and are independent of one another.

"Reply—We cannot admit this distinction of inner or subjective morality and outer or objective right. Rights have not to do

merely with the outer act, for besides rights that concern the outer act, there are also rights that concern the inner will. A father has the right to the love of his children, just as children are obliged to love their father. And the love that is due to a father is something more than mere external reverence. It is an inner act of the will. Inner love, therefore, can be the object of right. Also men have a right not merely to freedom from attack on the part of others, but also to freedom from evil judgment. I can be quite as unjust to a man by judging him wrongly, as I can by stealing money out of his pocket. Hence, right does not concern outer acts merely.

"Again, outer acts cannot be completely separated from inner motive, for they both make up one complete human action, and hence, even if right had to do with the external act only, it would not on that account be disassociated from morals. Just as an outer act can be free, but not independently of the inner act (since it is free because it makes one object with the inner act), so even though right referred to the outer act, it would still depend on the inner moral law.

"We cannot, therefore, admit any such complete cleavage as that insisted on by positivists between morality and outer right."*

*Cronin—Science of Ethics, Vol. I, Chap. XX.

THESIS XXVIII

The subject of a right can be only a person, the matter of a right can never be a person and in the concrete every right is proximately actuated by some fact called a title.

INTRODUCTION

This thesis deals with what are called the correlatives or components of right. They are four in number, three of them being the subject, foundation and term of the relation which really constitutes a right, and the fourth, the object-party on whom the moral restraint, spoken of in the previous thesis, is imposed by the right itself.

Of the object-party we shall treat in a later thesis, since it is a subject that demands special and separate attention. Here it is sufficient to note that this object-party of a right is some person, physical or moral, on whom a duty is imposed because of another's right.

EXPOSITION

SUBJECT: The one who possesses the moral power. *This is the subject of the relation.*

PERSON: A singular, complete substance which is intellectual and self-possessed, i.e., *sui juris,* or not united to another being by whom it is possessed.

N.B.—A person may be—

1) *"Natural,* i.e., such as the God of nature formed us;

2) *Artificial,* i.e., such as are created and devised by human laws for the purposes of society and government."—Blackstone, *Commentaries* p. 123.

Such artificial persons are also called "moral," "conventional," "juristic," "juridical."

MATTER *of right*: is that which one may do or hold or exact. *This is the term of the relation.*

IN THE CONCRETE: That is to say, looking at each individual right as it here and now becomes the possession of some

particular person. This view of a right is distinguished from the abstract consideration of the origin of right in general. This we have already proved to be found in some *law* and *ultimately* always in the natural law.

PROXIMATELY ACTUATED: That is to say, the proximate and immediate *cause* of the actual existence of the right here and now; the proximate and immediate cause why *this particular* person has *this particular* right to do or hold or exact *this particular* thing.

FACT: Either the fact of *existence* on the part of the subject of the right (in the case, as we shall see, of *connatural* rights); or some other contingent, historical fact, whether individual or social, involving for the most part some exercise of man's activity (in the case, as we shall see, of *acquired* rights). *This is the foundaton of the relaton.*

TITLE: Therefore, is defined as the particular fact because of which this particular concrete right actually exists (*is actuated*) here and now.

In the light of these definitions and explanations, the meaning of the third part of our thesis is clear. It is this: Whereas it is proved in the preceding thesis that law and law alone has the power of conferring a right upon any person, it is here to be proved that no law can actually exercise this power unless there be in the subject (person), on whom the right is to be conferred, some reason or cause why this power should be exercised in his regard; this reason or cause is in every case, according to our contention, some fact, and this fact is called a TITLE of the right.

We can express this thought in another way. The relation which constitutes a right is a real connection between the person possessing the right and the matter (whether thing to be done, thing to be held or thing to be exacted) of the right; this connection can be established only by some law, but no law can establish it between any particular person and any particular thing unless, as a *fact,* the person at least exists. This fact of existence is therefore, the foundation of the relation which constitutes *connatural* rights. As a foundation of *acquired* rights, other facts are necessary.

N.B.—Care must be had not to confuse this *use* of the term

"foundation" as applied to the title of a right, with the use sometimes made of the same word to express the ground or origin of the right. The ground or origin we have seen is always a law. Some authors speak of the law as the *ultimate foundation* and of the fact, which is the title, as the *proximate foundation.* In the foregoing explanation the term is used in the ordinary technical sense assigned it in our Ontology, namely, to signify "that *in the subject of a relation* which is the reason why the subject is capable of being referred to the term of the relation."

PROOFS

Part I. THE SUBJECT OF A RIGHT CAN BE ONLY A PERSON.

The subject of a right must be one bound by obligation.

But only a person can be bound by obligation. *Therefore.*

Major: Clear from previous thesis.

Minor: Evident from nature of obligation and definition of person.

Part II. THE MATTER OF A RIGHT CAN NEVER BE A PERSON.

The matter of a right is that which, precisely because of the right, is subordinated to the personal interests of the one who has the right.

But a person can never be subordinated to the personal interests of another. *Therefore.*

Major: Clear from the explanation and proof of previous thesis; the very existence of rights can be vindicated only by showing that there is a natural necessity for each individual person to have the moral power to subordinate certain things to his own personal self-protection and development.

Minor: Clear from the essential equality of all persons and their consequent essentially equal obligations to secure their own well-being. To be a person and not merely a thing includes this very notion that *as a person* one cannot be made a *mere means* to another's good.

Part III. IN THE CONCRETE, EVERY RIGHT IS PROXIMATELY ACTUATED BY SOME FACT CALLED A TITLE.

In the concrete every right is proximately actuated by some fact, if even admitting the existence of a law capable of establishing a right, some fact is necessary for the actual existence of a right in the concrete.

But this condition is true. *Therefore.*

Major: Evident; for nothing can actually exist without that which is necessary for actual existence.

Minor: Clear from explanation given in the exposition of the thesis; for not even the natural law establishes of itself the *actual* connection or relation of moral power between any particular person and any particular thing. For such an actual *connection* the *fact* of the person's existence at least is necessary, and for many rights other facts supervening upon a person's existence are necessary.

COROLLARIES

I. From the proof of the first part of this thesis it becomes clearer what is the full meaning of the phrase *sui juris,* or self-possessed in the definiton of person—at least as applied to man. We say as applied to man because what follows cannot be said without some qualification of other persons, whether natural moral persons—the family and State, of which we will treat in the Ethics of Society—or of artificial persons mentioned when we explained the term in the exposition of the thesis.

By *sui juris,* therefore, we mean—

1) that man has the *physical* ability to act for himself and to use his powers consciously for his own ends;

2) that man has the *moral* power to dispose of himself freely in any way not forbidden by the law of God;

"Man is made his own master by free will and therefore man may lawfully dispose of himself in things which relate to this life, which is ruled by the free will of man."—St. Thomas, 2, 2, 64, 5 ad 3.

3) that man is by nature not a mere means subordinated to the interests of another;

4) that man has by nature all irrational things subordinated to his interest.

Rickaby well says that a *person* is a being whom we call *autocentric* as distinguished from a *thing* which is *heterocentric.* A

person is his own, a thing is another's.—*Moral Philosophy*, pt. 2, ch. 2, sect. 1, p. 203.

II. "When a right or duty is said to be attached to an 'estate' or a 'thing,' if we examine these cases more attentively we shall find that there is some person natural or artificial, actually possessing or about to possess, to whom this right or duty belongs and that these expressions are only used to indicate the extent of the right or duty and how it is transferred."—Markby *Elements of Law*, 139.

III. Animals, therefore have no rights, though man has duties *towards* animals based on duties towards himself. For example, if I put a horse's eye out, I am under no obligation to make any amends to the horse. Yet, I am in duty bound to my own self not to brutalize my own nature by such cruel treatment of animals —(Cf. Spalding, *Introduction to Social Service*, pp. 74-76.)

IV. Though we have proved that a person can never be the *matter* of a right it is by no means true to say that the *actions of a person* cannot be such matter; in fact we shall later prove that such actions are the very duties imposed on some persons by the rights of others.

SCHOLION

With the foregoing definitions of the correlatives or components of right in mind the following further divisions of rights will be clear.

RIGHTS ARE DIVIDED:

1) According to SUBJECT:

Public—A right which inheres in the State or its governmental agents or in private persons as against the State or its agents.

Private—A right which resides in private persons and is assertable only against other private individuals.

2) According to MATTER:

Real (*Jus in re*)—a right in or over *one's own* object.

Personal (*Jus ad rem*)—A right to demand of another that something may become one's own.

3) According to TITLE:

Connatural—A right which one possesses from birth independently of any human conditions, e.g., Right to Life.

Acquired—A right which one possesses because of some contingent historical fact, e.g., Right to hold *this* piece of property.

Acquired rights may be *acquired natural* rights or *acquired positive* rights.

N.B.—Connatural rights are also called by the older writers *absolute* rights, and acquired rights, *relative* rights.

4) According to TRANSFERABILITY:

Inalienable—A right which may not be renounced or transferred to another, e.g., the Right to life.

Alienable—A right which may be renounced or transferred to another, e.g., the Right to external personal liberty.

N.B.—1) The reason why a right is inalienable is because it is based on a DUTY which must be fulfilled that a man may live up to the essential requirements of his nature.

2) Though one may not transfer an inalienable right, one may for sufficient reason transfer the EXERCISE of such a right to another.

5) According to RELATION TO PHYSICAL FORCE:

Perfect—A right which includes the right of coaction, i.e., the Right to use physical force, e.g., Right to life, to just compensation.

Imperfect—A right which does not include the right to use coaction or physical force, e.g., my Right to have another tell me the truth, to have the gratitude of another.

N.B.—There is a great deal of variance in the use of the terms "perfect" and "imperfect" as applied to right. We shall use the terms in the sense above-defined, and, because of the importance of a proper understanding of this division of Rights, we shall next treat of it in a special thesis.

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Subject of Rights—Catholic Encyclopedia VIII-573

THESIS XXIX

While neither coactivity nor coaction constitute the essence of a right, still coactivity is an essential property of some rights. The exercise of coactivity even in rights that spring from commutative justice, ought to be entrusted normally to the civil government.

EXPOSITION

COACTIVITY: is the MORAL power of using physical force, where necessary, to protect one's right, i.e., to obtain the effect intended by nature in bestowing that right.

COACTION: is the exercise of THIS moral power, viz. coactivity.

ESSENCE: that by which a thing is that which it is. Therefore the essence of right is that by which a right is a right, namely, a moral power of the kind described in previous thesis.

ESSENTIAL PROPERTY: a quality which does not enter into the constitution of the essence of a thing, but which cannot be absent from that essence.

SOME RIGHTS: that is to say, we do not claim coactivity as an essential property of right in general, therefore of each and every right. We concede that there are some rights to which this property is not essential.

To denote the difference between rights which have this essential property and others which have not, we use the terms "Perfect" and "Imperfect" as defined in the previous thesis. And though, as we have stated, a great deal of variation exists as to the meaning attached by different authors to these terms, we shall use them only in this technical sense, *without implying* in the least any inequality of the moral inviolability of the two classes of rights or insinuating that whereas one would do moral wrong in violating a *perfect* right, he would do no moral wrong in offending against an *imperfect* right.

However, it may be said that there is such a difference between these two kinds of rights—a difference based, not upon the pres-

ence or absence of the quality of coactivity, but upon something in their very nature that gives rise to this presence or absence. Rights which have this quality and so are called *perfect* are RIGHTS *in the fullest and strictest sense of the word.* Such are those rights which one has to things connected with one's person in such a peculiarly intimate way that their entire usefulness is at one's own disposal to the exclusion of all others (excepting, of course, God and His absolute supreme claims made through just law). They are rights to such things as are MINE in the strictest sense of the word as opposed to YOURS. For example:

1) My human life is mine by identity with my person—TITLE IS EXISTENCE.

2) Parts of my body are mine by substantial union with me—TITLE IS EXISTENCE as an integrally complete being.

3) Good health and knowledge are mine by accidental union—TITLE IS CARE AND WORK.

4) My money, house, books, etc., are mine—TITLES ARE PURCHASE, DONATION, ETC.

EXERCISE OF COACTIVITY: that is, the actual use of physical force, or as we have called it, COACTION itself.

EVEN: this implies that, whereas all perfect (coactive) rights have their origin in JUSTICE, there are different classes of these same rights according to their origin either in Commutative or other kinds of justice. An adequate treatment of this point involves a discussion of the whole subject of Justice and, since justice is what is called a VIRTUE, the whole subject of virtue. Such a discussion we must reserve for a later thesis. We introduce here only what is necessary for the understanding of the present thesis. Therefore:

JUSTICE: the constant and abiding disposition and determination of the will to give each one his due.

N.B.—Such abiding internal principle of right action is known as a VIRTUE. Hence Justice is a virtue.

"From the ethical standpoint, virtue is a habit that a man has got of doing moral good, or doing that which befits his rational nature to do; vice is a habit of doing moral evil."—Rickaby, *Moral Philosophy,* pt. I, ch. V, sect. II, No. 1.

"The proper object of justice in its place among virtues is to direct a man in his dealings with another. For justice involves a certain equality, as the

name itself shows; for the things that are equalized are said to be adjusted (*justari*); and equality is a relation of one thing with another. Other virtues perfect a man only in what is his own private concern. They regard the agent and the agent exclusively, in the rectitude of conduct which they determine and aim at as their object; but justice fixes its rectitude of conduct in reference to some one else—even passing over the agent. That is called *just* in our doings, which is in some sort of equality corresponding to something else, as in the instance of wages corresponding to work done." —St. Thomas Aquinas, 2, 2, 57, 1. Cited by Rickaby, *Aquinas Ethicus*, II, p. 7, 8.

N.B.—This aspect of equality is well expressed in the current phrases: "I'll get square with you;" "Now we're square;" "That isn't square.

"The fundamental notion of Justice is some sort of equality. Equality presupposes two terms, physically distinct, or capable of existing separately, one from the other."—Rickaby, *Moral Philosophy*, pt. I, ch. V, sect. IX, No. 1.

Hence, where there is lack of "otherness," there can be no justice—e.g., strictly I cannot be just to myself.

Since justice has for its function to bring about this equality of correct relations between man and man, the various relations to be observed give rise to various divisions of justice. Therefore:

COMMUTATIVE Justice: is the constant and abiding disposition and determination of the will of the *individual* to give each other *individual* his due.

DISTRIBUTIVE Justice: is the constant and abiding disposition and determination of the will of the *State* to give each *citizen* his due.

N.B.—By "the State" we mean the community as a whole, functioning through its authorized officials.

SOCIAL (or LEGAL) Justice: is the constant and abiding disposition and determination of the *citizen* to give the *State* its due.

N.B.—This is called *social justice* because it looks to the adjustment of the subject's actions with a view to the common or social good. It is called *legal* justice because it is fulfilled by observance of the laws (*leges*).

That there *ought* to be in every man such a disposition as that which is called COMMUTATIVE Justice is very evident from the theses on the Norm of Morality and the Existence of the Natural Law.

That there *ought* to be such dispostion, as here spoken of, on the part of the citizen and the State towards each other can be only presupposed at present, as a truth to be convincingly established in the Ethics of Society. It will be there proved that the State is *natural* to man, and therefore, *these forms* of Justice are also based upon the demands of the Natural Law.

The implication, therefore, of the word "even," in the enunciation of the present thesis, is that there are not only coactive rights which spring from *Commutative* Justice, but also those that spring from *Social* Justice.

N.B.—From the examination to be made in the Ethics of Society of the nature of *Distributive* Justice it will be evident that no such rights can have their origin in this kind of Justice.

With regard to these two classes of Coactive Rights, the following points of difference should be noted:

1) In respect of *matter.*

Rights from commutative justice regard the good of the individual;

Rights from social justice regard the good of the community.

2) in respect of *reparation* of violation.

Commutative justice demands the reparation of the injury inflicted.

N.B.—It is here that the important question of RESTITUTION enters.

While it is clear that, in the case of coactive rights springing from *Social* Justice, the exercise of coactivity as well as the right to such exercise belongs exclusively to the State, the contention made in the last part of the present thesis is not so immediately evident, namely, that in the case of coactive rights springing from Commutative Justice, the exercise of coactivity belongs primarily to the head of the community of which the subject of the perfect right is a member, and secondarily only, when the community fails to afford protection and the invasion of right is imminent, to the subject of the right. Hence, the need of an explicit proof of this proposition.

NORMALLY: i.e., in ordinary circumstances and under ordinary conditions. The exceptional conditions provided for by this

qualifying adverb are those in which the right in question must be defended or vindicated *at once* if at all and appeal cannot be made then and there to the officers of the government.

CIVIL GOVERNMENT: that is, the organ of the authority of the State (civil society). This authority as we shall learn in the Ethics of Society is the right which the State possesses to "effectively direct its individual members to the attainment of the proper and special end for which the State exists."

PROOFS

Part I. COACTIVITY DOES NOT CONSTITUTE THE ESSENCE OF A RIGHT.

1) Coactivity does not constitute the essence of a right, if there are rights which of their nature cannot be subject to the compulsion of physical force.

But there are such rights. *Therefore.*

Major: Evident; for coactivity means the right to use physical force as a means to compel others to respect one's rights.

Minor: For example, the right each man has from his relation of essential equality with fellow man, not to be thought ill of by another unless he gives ground for such unfavorable judgment.

2) Coactivity does not constitute the essence of a right, if from its own very nature, it presupposes a right already existing antecedently to itself.

But this is so. *Therefore.*

Major: Evident.

Minor: Of its nature, coactivity is the right to use force *in defense of a right;* therefore, it presupposes a right already existing.

Part II. COACTION DOES NOT CONSTITUTE THE ESSENCE OF A RIGHT.

Coaction does not constitute the essence of a right, if coaction is the exercise of a *physical* power.

But it is. *Therefore.*

Major: For right is a *moral* power.

Minor: Clear from its definition.

Part III. COACTIVITY IS AN ESSENTIAL PROPERTY OF SOME RIGHTS.

That is, an essential property of perfect rights without which the purpose intended by nature in granting those rights cannot be attained.

But without coactivity, the purpose intended by nature in granting perfect rights cannot be attained. *Therefore.*

Major: Evident from notion of essential property.

Minor: The purpose intended by nature in granting these rights is that each one be free and independent in possessing and using things in the way suited to lead him to his last end. But in view of the selfishness and malice of men, such freedom and independence would commonly enough be unattainable, unless it were permitted, i.e., unless men had the moral power (right), to use physical force in the exercise, defense and reparation of their rights. For take away this moral power, and the good, those who in obedience to conscience and natural law will do nothing that they have no right to, will be at the mercy of the wicked.

Part IV. THE EXERCISE OF COACTIVITY, EVEN IN RIGHTS THAT SPRING FROM COMMUTATIVE JUSTICE, OUGHT TO BE ENTRUSTED NORMALLY TO THE CIVIL GOVERNMENT.

The exercise of coactivity, even in rights that spring from commutative justice, ought to be entrusted normally to civil government if civil government and only civil government has normally the *natural* duty of protecting such rights.

But this condition is true. *Therefore.*

Major: Clear; for we use the word "natural" here in the sense that it is in accord with the norm of morality.

Minor: To be proved in the Ethics of Society. There it shall be shown that the protection of these natural rights of men is the immediate though, of course, not the sole and adequate purpose for which the State (civil society) exists.

Normally the use of force pertains to the state and not to the individual because right order demands this. It would be against the common good if every individual citizen could resort to the use of force at will.

SCHOLIA

I. Notice that our thesis does not say that COACTION is an essential property of any right; on the contrary, it is quite clear that we may have a right in the fullest and strictest sense of the word without using physical force to protect it.

Nor does it say the PHYSICAL POWER of using force is an essential property. We may have a right in all its essential completeness, and therefore, full MORAL POWER to use physical force, even though, by accident we be completely deprived of the physical power itself.

II. As to the actual use of physical force in defense of perfect rights, it is clear that such cannot be legitimate unless:

1) It be necessary either to restrain another from inflicting an injury or to force him to repair an injury already done, and

2) Unless the physical force used be not out of proportion to said necessity of defense or reparation. That is, the harm inflicted by physical violence must not be greater than the harm caused by the violation of right.

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THESIS XXX

To every person's subjective right there corresponds in some other person a duty.

EXPOSITION

CORRESPONDS: that is, the right in question is the *proximate cause* of the existence of some duty in another person.

DUTY: an obligation to do, yield or omit something.

From what was stated in the previous thesis to the effect that there is in the case of every *right* an *object-party,* namely, a person (for evidently none but a person can be spoken of in this way) present or future, on whom the moral restraint, inherent in a right is exercised, it is clear that the obligation which we call duty is nothing else than this restraint placed on one by the right of another as a cause.

DUTY IS DIVIDED INTO:

NEGATIVE, i.e., an obligation not to interfere with another. Such a duty implies *mere restraint.*

AFFIRMATIVE, i.e., an obligation to help another in some way. Such a duty implies *constraint.*

Affirmative duties are:

1) *Merely Ethical,* if the obligation arises from a virtue other than justice.

2) *Juridical,* if the obligation arises from commutative or social justice.

In other words, to every juridical duty of one person, there responds a perfect right in another person, and the latter is the immediate ground of the former.

N.B.—It is important to note here also, as we noted in the case of the division of Right into Perfect and Imperfect, that this latter division does not mean that juridical duties are more binding and consequently more sacred than ethical duties. It merely designates the source of obligation and implicates the method of redress, i.e., by restitution.

3) NATURAL, i.e., an obligation that is imposed directly by the natural law.

4) POSITIVE, i.e., an obligation that is imposed directly by a *positive* law.

PROOF

TO EVERY PERSON'S SUBJECTIVE RIGHT THERE CORRESPONDS IN SOME OTHER PERSON A DUTY.

To every person's subjective right there corresponds in some other person a duty, if the inviolability of the moral power called right could not be had without the existence of such a duty in another.

But this is so. *Therefore.*

Major: for inviolability is essential to the moral power called right.

Minor: this inviolability consists exactly in the fact that the right puts a bond on another's will, binding that other at least not to interfere with the possessor of the right in the matter of that right; such a bond on the will of another is exactly what we have defined as duty.

N.B.—That this other must be a *person* is evident for the same reason as that given in the case of the subject of a right, namely, that only an intellectual agent can be capable of a moral power or a moral necessity.

THESIS XXXI

A true conflict of concrete rights or duties is impossible, and in a seeming conflict the stronger right or duty prevails.

EXPOSITION

CONFLICT OF RIGHTS: a state wherein at one and the same time:

1) One person is possessed of the moral power to do a certain thing and another is possessed of the moral power to prevent his doing it; or

2) Two persons have a moral power to hold or exact for themselves the same thing.

CONFLICT OF DUTIES: a state wherein at one and the same time:

1) One and the same person is obliged to two different and contradictory lines of conduct; or

2) Two persons have obligations, the fulfillment of which would mean the violation of one another's essential rights.

CONCRETE: that is, as rights and duties *really exist* and belong to some definite subject (person.) This word in the thesis indicates that it is not to be denied that seeming conflicts may arise.

STRONGER RIGHT: as every right is based on a prior duty in the subject of that right, its extension is necessarily limited by that duty; hence, that will be the stronger right in a case of apparent conflict which springs from a higher or more imperative duty.

STRONGER DUTY: as every duty is the effect of some law obliging the subject of that duty, the strength and extent of the duty must be measured by the importance and ground of the law from which it has its existence; hence, that will be the stronger duty in the case of an apparent conflict which is based on the superior law, thus explained.

PROOFS

Part I. A TRUE CONFLICT OF CONCRETE RIGHTS OR DUTIES IS IMPOSSIBLE.

A true conflict of concrete rights or duties is impossible, if such a conflict would argue a contradiction in the natural law.

But such a conflict would argue a contradiction in the natural law. *Therefore.*

Major: For this would argue in turn an imperfection in God, the Author of the natural law.

Minor:

A.—With regard to RIGHTS.

A true conflict of rights would mean that at one and the same time one man has an inviolable moral power to hold or claim something as his own so that all others would be doing moral wrong in depriving him of that thing, and another man has an equally inviolable moral power to hold or claim that same thing for himself without being guilty of any moral wrong. But this would clearly be a case of contradiction and in the supposition that both so-called rights were real, genuine rights, this contradiction would be based on the natural law, from which all real rights ultimately spring.

B.—With regard to DUTIES.

A true conflict of duties would mean that a person has an obligation to place or refrain from placing a certain action and at the same time an obligation not to place or not to refrain from that same action. Such would be a clear case of contradiction and in the supposition that both so-called duties were real, genuine duties, this contradiction would be based on the natural law, from which all real duties ultimately spring.

Part II. IN SEEMING CONFLICT, THE STRONGER RIGHT OR DUTY PREVAILS.

In a seeming conflict of rights or duties, that right or duty prevails which is more necessary for the observance of the moral law.

But the stronger right or duty is more necessary for the observance of the moral law. *Therefore.*

Major: Evident, for all duties are merely particular obligations of the moral law, and all rights are granted merely to enable man to fulfill the demands of the moral law.

Minor: Clear from the definition of *stronger* right and duty.

SCHOLIA

I. The following brief treatment of what is called the LIMITATION of right will throw further light on the question of apparent conflict of rights:

Limitation means that one right can limit the exercise of another, that in the exercise of a right we are not free to disregard the counter claims of others. Just as the functions of one part of an organism limit the functions of others—that is, as no part should be exercised prejudicially to the others—so due regard must be had in exercising any right, or in following any law, to the whole system of rights and laws that regulate human conduct. Thus, the law which gives a man power to keep for himself what he produces is limited and conditioned by other laws, such as the law of charity which binds a man to help his neighbor. Also, the right of one man to liberty in the use of his faculties is limited by the right of another man to the same. The extent of a man's rights depends largely upon this property of limitation.

II. In the same way the following additional notions will help to a better understanding of the apparent conflict of duties:

Negative duties never appear to conflict with negative, because negative duties call for an omission of the act, and many such omissions can be had at the same time. Conflict may seem to arise only in the case of *affirmative* duties with *affirmative*, e.g., charity to neighbor and fidelity to oath in court or *affirmative with negative*, e.g., charity to neighbor and duty not to steal.

The practical rule is, *the superior law prevails.* A superior law is one—

a) that is *more necessary* for the *common good;* hence a *negative* law prevails over an *affirmative*, e.g., duty to avoid a lie over duty of charity; *universal* over *particular*, e.g., class duties over duties of debating society; *juridical over merely ethical;*

b) that concerns *superior matter;* hence, duties to soul before body; duties to life before those that concern our conditions in life;

c) that concerns *superior person;* hence, duties to God before man.

REFERENCES, COLLATERAL READING

The study of ethics should be a part of any scheme of liberal education. From a practical point of view it is most helpful for the clergyman, the physician, the lawyer, the economist and the social worker, the politician and the business man. To be of real value, ethics must be exemplified and enlarged by collateral reading; textbook knowledge alone will not suffice. Much of the teacher's success will depend on the judicious choice of reading and reading will vary with the character of the students; the social worker will not be interested in many questions which will appeal to the lawyer or economist. Hence we have preferred to leave a wide latitude in the selections of books and pamphlets to illustrate the text.

Catholic Encyclopedia. The class should be familiar with the wealth of material contained in the Catholic Encyclopedia.

Spiritual Treatises. These books will be found useful especially in illustrating the earlier sections of the text and in explaining our duties towards God, ourselves and our fellow men. A judicious selection of the several chapters must be made for in none of these books will the entire matter be found to correlate with the text. We give a list of a few of the volumes which the author has found serviceable.

(1) "Man's Great Concern," by Ernest R. Hull, S.J., P. J. Kenedy and Sons.

(2) "Creator and Creature," by Father Faber, John B. Murphy Co.

(3) "Strength of the Will," by E. Boyd Barrett, P. J. Kenedy and Sons.

(4) "Our Failings," by Sebastian Von Oer, O. S. B., B. Herder.

(5) "Simplicity," by Msgr. de Gibergues, P. J. Kenedy and Sons.

(6) "The Catholic's Ready Answer," by M. P. Hill, S.J., Benziger Bros.

(7) "The Hand of God," by M. J. Scott, S.J., P. J. Kenedy and Sons.

(8) "A Treatise on the Love of God," by Saint Francis of Sales, Benziger Bros.

(9) "Thoughts for all Times," by Mgsr. Vaughan, Benziger Bros.

Pamphlets. Too much emphasis cannot be placed upon the usefulness of pamphlets; they cover every range of the subject and add to the topics a freshness and interest which cannot be secured by references to books. The following publishers offer an ever increasing supply of pamphlets and booklets on all the most important ethical subjects of the day:

(1) America Press, Printing Crafts Bldg., 461 8th Ave., New York City.

(2) Catholic World, 120 West 60th St., New York City.

(3) The National Catholic Welfare Council, 1312 Massachusetts Avenue, Washington, D. C.

(4) Central Bureau, 3835 Westminster Place, St. Louis, Mo.

(5) The Catholic Charities Review, 324 Indiana Ave., Washington, D. C.

(6) Catholic Truth Society, 69 Southwark Bridge Road, London, S. E. 1.

General References. A letter to the Superintendent of Public Documents, Washington, D. C., inquiring about pamphlets (on social or economic questions), issued by the government and for sale to the general public, will bring an immediate response. The Monthly Labor Bulletin (the address as above) will be found most valuable. "Personnel Research Agencies—A Guide to Organized Research in Employment Management, Industrial Relations, Training and Working Conditions." By J. David Thompson. Bulletin of the United States Bureau of Labor Statistics, No. 299. Government Printing Office, Washington, 1921. Then, there are numerous state and city publications, and bulletins of societies which are distributed free or sold at a nominal price. Students should be required to consult books of handy reference such as: "Directory of Catholic Charities in the United States," National Catholic Welfare Council, 1312 Massachusetts

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